JUSTICE Actualités Report

Association canadienne de justice pénale
Canadian Criminal Justice Association
Volume 21 No. 4
Fall / Automne 2006

Professionals talk about their careers in criminal justice

Des professionnels racontent leur carrière au sein du système de justice pénale

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JUSTICE Report / Actualités

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JUSTICE REPORT carries information of value to Association readers and the public interested in matters related to the administration of justice in Canada. Opinions expressed in this publication do not necessarily reflect the Association's views, but are included to encourage thought and action on the criminal justice system throughout Canada. For more information on the activities of the CCJA, please contact:

ACTUALITÉS-JUSTICE renferme des renseignements utiles aux lecteurs de l'Association et au public qu'intéressent les questions relatives à l'administration de la justice au Canada. Les opinions qui sont exprimées ne reflètent pas nécessairement les vues de l'Association, mais y figurent afin d'encourager à réfléchir et à agir sur la justice pénale dans tout le Canada. Pour obtenir de plus amples renseignements sur les activités de l'Association, veuillez communiquer avec:

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Executive Director's Annual Report 2005-2006

By Irving Kulik

Executive Director

It is quite amazing how quickly time passes when viewed through the rear view mirror. While it seemed but yesterday when I took over from Glenn Thompson as Executive Director, it has in fact been over 2 years. I began my third year here this past July. Well, as they say, "when you are having fun..."

The passage of time does not preclude us however, from commenting upon the Association's performance in the last fiscal year. While much has been stated at Board meetings and written in these pages, let me summarize some of the highlights of 2005-6.

We set objectives for ourselves under the following goals:

1. Fostering Communications
2. Public Education/Partnerships
3. Research/Policy Development
4. Governance and Organizational Development
5. Resource Development

It is critical that we maintain our image as a provider of objective advice and independent opinion.

As we all know, much has happened in the world around us, particularly in Government. As an NGO dependent to a great extent upon the good graces of political and policy masters, it is reassuring to observe that CCJA continues to maintain its stature and credibility with partners at all levels. We have been involved in many consultations at the federal, provincial and NGO levels in the past year. It is critical that we maintain our image as a provider of objective advice and independent opinion. At the same time we need to continue to enhance our visibility among more Canadians.

Many of you were witness to a very successful Congress 2005 in Calgary, last October. Our goal is continuous improvement and in this regard we are working hard in producing Congress 2007, using a slightly different format. Our draft program will be going to the printer shortly. In the meantime all members

should have received a postcard announcement by now.

All members receive the Justice Report every quarter. I trust you all agree that this is a much improved quality publication that is well received by members. Similarly, a large portion of the membership also subscribe to the Canadian Journal of Criminology and Criminal Justice. We are in its 48th year of publication. We have an excellent Editor in Chief, Professor Peter Carrington and distinguished associate editors and reviewers who make up the Editorial Advisory Board.

Our goal is continuous improvement and in this regard we are working hard in producing Congress 2007, using a slightly different format.

The Policy Review Committee has made a number of important strides in the last year. Several policy papers are being finalized and we hope to be in a position to present these shortly to the parliamentary Committee. They deal with key planks of the Government's public safety agenda and have been shared with members in draft form. During the next Board meeting in October we are hoping to strengthen the work of our other committees as well.

A major effort has been underway during the last 2-3 years in reactivating some of the affiliates. As a result Nova Scotia had a most successful membership campaign and now boasts about 200 members. Similarly, work has begun on the New Brunswick/PEI affiliate with an expected kick-off event in December. Finally, we are focussing on Saskatchewan and are hopeful that this work will bear fruit during this year. In April overall membership stood at close to 800 which is a very significant improvement over the last few years, although we are not yet at the zenith attained years ago.

Finally, I can report that while we continue to be challenged to do more with less, as are most other NGOs today, we are managing to carry out our principle tasks successfully. There is much more that we can do and we are not short of ideas and initiative. If membership continues to grow so will our capacity to impact positively in promoting an effective criminal justice system in our country.

Rapport annuel du directeur général pour 2005-2006

Par Irving Kulik

Directeur général

Il est étonnant de constater à quel point le temps passe vite lorsqu'on voit les choses dans son rétroviseur. Il me semble que je viens tout juste de remplacer Glenn Thompson au poste de directeur général, mais deux ans déjà ont passé. J'ai entamé ma troisième année en juillet. « Le temps passe vite quand on s'amuse », dit on.

Par ailleurs, le passage du temps, n'exclut pas que nous ayons à formuler nos observations sur le rendement de l'Association au cours du dernier exercice financier. Bien qu'on en ait déjà fait état largement dans le cadre des réunions du conseil d'administration et dans ces pages, permettrez-moi de vous résumer les faits saillants de l'année 2005-2006.

Nous nous étions fixé certains objectifs à atteindre sous cinq chapitres :

1. Amélioration des communications
2. Éducation publique/partenariats
3. Recherche/élaboration des politiques
4. Gouvernance et développement organisationnel
5. Développement des ressources

Il est essentiel que nous conservions notre réputation en tant que source de conseils objectifs et d'opinions indépendantes.

Comme nous le savons tous, bien des choses se sont produites dans le monde qui nous entoure, notamment au sein de l'administration publique. À titre d'ONG, dont le sort dépend en grande partie des bonnes grâces des instances politiques et des décideurs, il est rassurant de constater que l'ACJP est en mesure de préserver son envergure et sa crédibilité auprès de ses partenaires des divers niveaux. Nous avons

participé à de nombreuses consultations avec les instances fédérales et provinciales au cours de la dernière année, de même qu'avec d'autres ONG. Il est essentiel que nous conservions notre réputation en tant que source de conseils objectifs et d'opinions indépendantes. Parallèlement, il nous faut continuer d'améliorer notre visibilité auprès d'un nombre croissant de Canadiennes et de Canadiens.

Bon nombre d'entre vous ont eu l'occasion d'assister au Congrès 2005 à Calgary, en octobre dernier; cet événement a connu un très grand succès. Comme nous visons toujours de faire mieux, nous travaillons fort à planifier le Congrès 2007, dont la formule sera quelque peu différente. Notre programme préliminaire sera imprimé sous peu. Entre temps, tous nos membres devraient déjà avoir reçu une annonce sous forme de carte postale.

Tous nos membres reçoivent *Actualités-Justice* trimestriellement. Vous conviendrez tous, j'espère, qu'il s'agit d'une publication dont la qualité s'est grandement améliorée et qui est très bien accueillie par nos membres. De même, une forte proportion de nos membres est abonnée aussi à la *Revue canadienne de criminologie et de justice pénale* qui en est à sa 48e année de publication. Nous pouvons compter sur un excellent rédacteur en chef en la personne du professeur Peter Carrington, de même que sur des rédacteurs associés et évaluateurs distingués qui, ensemble, constituent le Comité consultatif auprès de la rédaction.

Le Comité d'examen des politiques compte plusieurs réalisations importantes à son actif au cours de la dernière année. Plusieurs énoncés de politique sont en voie d'être complétés et nous espérons être en mesure de les présenter au Comité permanent de la Chambres des communes d'ici peu. Ces énoncés abordent plusieurs dimensions clés du programme d'action du gouvernement en matière de sécurité publique et nos membres ont eu l'occasion de se prononcer sur l'ébauche de ces documents. Nous espérons pouvoir consolider les efforts de nos autres comités à l'occasion de la réunion d'octobre du Conseil d'administration.

Une initiative importante est en cours depuis deux ou trois ans et vise à redonner vie à certaines de nos affiliées. De ce fait, l'Association de la Nouvelle-Écosse a mené une campagne de recrutement très réussie et est fière de compter quelque 200 membres à l'heure actuelle. Des efforts semblables sont en cours au sein de notre affiliée du Nouveau-Brunswick/Î.-P.-É. et on prévoit tenir une activité pour lancer la campagne de recrutement en décembre. Enfin, nous centrons nos efforts actuels sur la Saskatchewan et nous espérons qu'ils porteront des fruits au cours de la présente année. En avril, nous comptions près de 800 membres, une amélioration importante par rapport aux quelques années antérieures, mais on est encore loin des sommets atteints il y a plusieurs années.

Enfin, même s'il nous faut toujours en faire plus avec moins de ressources, comme c'est le cas pour la plupart des autres ONG, il me fait plaisir de vous indiquer que nous parvenons toujours à nous acquitter avec succès de nos tâches principales. Nous pouvons faire beaucoup plus, et ce ne sont pas les idées ou l'initiative qui manquent. Si nous continuons d'attirer encore plus de membres, il en résultera une augmentation correspondante de notre capacité de promouvoir un système de justice pénale efficace en notre pays.

Comme nous visons toujours de faire mieux, nous travaillons fort à planifier le Congrès 2007, dont la formule sera quelque peu différente.

Canadian Criminal Justice Association / Association canadienne de justice pénale

Notice of Annual General Meeting

To: All Members of the Canadian Criminal Justice Association

Subject: Annual General Meeting

When: Saturday, October 28, 2006 – 3 :15 pm – 4 :15 pm

Where: Sheraton Ottawa Hotel
Room E – 2nd Floor
150 Albert Street
Ottawa, Ontario – Tel: (613) 238-1500

The Agenda will include the following:

1. Adoption of the Agenda
2. Adoption of the Minutes of the last Annual General Meeting (October 25, 2005)
3. President's Report
4. Executive Director's Report
5. Audited Financial Statements to March 31, 2006
6. Appointment of Auditors for 2006-2007
7. Reports of the Chair of the Nominating Committee
   a) Advisory Council
   b) Board of Directors

Note: There will be a brief meeting of the new Board of Directors immediately following the Annual General Meeting.

Avis de convocation Assemblée générale annuelle

À : Tous les membres
de l'Association canadienne de justice pénale

Objet : Assemblée générale annuelle

Quand : Le samedi 28 octobre 2006 – 15 h 15 – 16 h 15

Où : Hôtel Sheraton Ottawa
Salon E – 2e étage
150, rue Albert
Ottawa, ON – Tél: (613) *238-1500*

L'ordre du jour sera le suivant:

1. Adoption de l'ordre du jour
2. Adoption du procès verbal de la dernière Assemblée générale annuelle (le 25 octobre 2005)
3. Rapport du Président
4. Rapport du Directeur général
5. Rapports financiers vérifiés au 31 mars 2006
6. Choix des vérificateurs pour 2006-2007
7. Rapports du Président du Comité des candidatures
   a) Comité consultatif
   b) Conseil d'administration

Note : Il y aura une brève réunion du nouveau Conseil d'administration immédiatement après l'Assemblée générale annuelle.

Federal Corrections: A Work in and of Progress

By Willie Gibbs

Looking back over the nearly 35 years (1966-2000) that I worked in federal corrections and parole, it is with a great deal of satisfaction and pride that I share some of my experiences with the reader.

In the context of the Canadian Criminal Justice System, there is no doubt that the Correctional Service of Canada (CSC) and the National Parole Board (NPB), along with their various partners, deal with the most difficult clientele in the business. Offenders in their charge have been convicted and sentenced to incarceration from 2 years to life and, for the most part, have been failures of the many other educational, social and correctional services that our Canadian society has to offer. Nonetheless, in the last four decades of the 20th century, federal corrections and parole, in partnership with after-care agencies, have been able to face those challenges and continuously improve their programs and services in order to assist the majority of offenders in becoming more pro-social and eventually law-abiding.

Progress in the field of corrections is never easy, especially when the clientele is considered to be the most ingrained criminals in the Country, and where some of them are notoriously known and despised by the general public. Many people and even some of those involved in correctional work are not always supportive of any assistance geared toward federal offenders. I personally found this out early in my correctional career when I began working at Dorchester Penitentiary in New Brunswick, an institution that was then nearly 100 years old and is still in operation today. In those days, tight security and occupational/vocational activities were in vogue for the inmates and there was very little else tolerated in the daily routine. Many among the correctional staff did not support the role of the institutional parole officer (IPO, then known as inmate classification officer), while some of them were outright hostile to such a role. So it was up to the few of us IPOs to show commitment, determination and patience in order to get the job done.

Such a repressive environment, of course, also negatively affected the inmates. As only a small minority of them could hope to be released on parole, the vast majority organized their lives to serve time for a few, if not many years. Therefore the "inmate code" (don't talk to staff and cooperate the least possible) was imminently present and quite solid, and not too many of them liked to be seen or interviewed by an IPO.

A few years later in the late '60s and early '70s, a very positive and progressive change took place in federal corrections with the opening and expansion of several medium and minimum-security institutions across Canada. This move gave great opportunities to both inmates and staff to literally "expand their horizons". Many inmates, notably the younger ones, could get out from under the repressive regime of the maximum security atmosphere by being transferred to lower security and benefit from much needed programming and counseling while, on the other hand, a large number of personnel saw their career aspirations become brighter with more options for diversity and promotions. I was one of those fortunate people who went to work at a new, modern correctional facility, Springhill Institution in Nova Scotia (medium security) as Supervisor of Classification and Psychological Services, then Head, Living Units, followed by Assistant Warden and finally Warden.

During the same period, the Canadian Penitentiary Service (now CSC) adopted and promoted a policy of organizational models that encouraged constructive interaction between inmates and staff. In this way, a more pro-social environment would not only have a positive impact among the masses, but also would be conducive to more individual inmates turning their lives around than in the past. At the same time, it provided staff with more learning opportunities than was traditionally the case. As an added benefit, the infamous "inmate code" would not be as strong, nor as pervasive. That is how the Living Unit model was put in place in medium and minimum-security institutions, and the Team Concept model in maximums. At Springhill we even had a long-term experiment with a Therapeutic Community. Today the most common correctional model is Unit Management.

It was also during the early '70s that the NPB introduced their "traveling panels", where Board members finally met face-to-face with inmates and IPOs for case hearings in institutions. Up to that time, all cases were reviewed on paper only in Ottawa. Thus, fortunately, these new personal hearings not only humanized the process and created a much better understanding of the cases, but it also dramatically increased the granting of safe releases. In addition, in the mid '70s, the NPB regionalized its operations, a move that is still in effect over 30 years later.

To complement this greater emphasis on conditional release and to ensure effective community corrections for federal offenders, the voluntary/private sector (The Association des Services de réhabilitation sociale du Québec, The John Howard Society, The Salvation Army, The St. Leonard's Society, etc.) expanded their halfway houses capacity and services. At the same time CSC introduced their Community Correctional Centers in most major cities in Canada. All these community facilities not only accommodated day parolees but also provided living skills and other programs during that transition phase. Today the same approach remains, however a fair number of the beds are taken by Statutory Release cases (with residency), which can negatively affect the atmosphere within the facilities.

There is no doubt in my mind that the development and adoption of a Mission was the most significant and positive turning point for CSC in the last four decades of the last century. Under the leadership of Commissioner Ole Ingstrup, who had been recruited by Commissioner Don Yeomans as a special advisor in 1984, the Mission was initiated but was only finally completed, approved and implemented in early 1989. (In the mid-'80s Yeomans had left CSC and Ingstrup had become Chairman of NPB for a couple of years before returning to CSC as Commissioner).

This Mission is an extremely powerful statement and direction for the Service. Whereas in the past CSC seemed content to "administer" the sentence of the court through its governing laws, policies and practices, the Mission now stipulates that all correctional staff must "actively assist" offenders in becoming law-abiding citizens. Moreover, it demands teamwork and collaborative efforts inside and outside of the Service, the provision of effective, research-based programs and interventions for offenders, and accountability on the part of offenders, staff and management, right up to the Cabinet Minister level in

government. In fact, since 1989 every Solicitor General (now Minister of Public Safety) has signed the Mission Document of CSC as a gesture of approval and support of its contents.

Whereas Ole Ingstrup had, as Chairman of NPB, completed a similar process of Mission development and adoption with that agency, this Mission had to be completely renewed and revamped in the mid-'90s to be more in step with CSC and also in line with the new Corrections and Conditional Release Act of 1992.

I'm grateful I had the opportunity to play a part, in a variety of positions, in that journey or "work in progress". Hopefully that progress will continue.

Les services correctionnels fédéraux : une œuvre en voie de réalisation et en constante évolution

Par Willie Gibbs

À l'issue d'une carrière de quelque 35 ans dans les domaines des services correctionnels et de la libération conditionnelle, c'est avec beaucoup de satisfaction et de fierté que je transmets mes expériences aux lecteurs et lectrices.

Il ne fait aucun doute que, dans le contexte du système de justice pénale, le Service correctionnel du Canada (SCC) et la Commission nationale des libérations conditionnelles (CNLC), de même que leur divers partenaires, ont à composer avec la clientèle la plus difficile du domaine. Les délinquants sous leur responsabilité ont été trouvés coupables et condamnés à une peine d'incarcération variant de deux ans à la perpétuité et, pour la plupart d'entre eux, tous les autres services éducatifs, sociaux et correctionnels offerts en société s'étaient déjà soldés par un échec. Néanmoins, au cours des quatre dernières décennies du 20e siècle, les services correctionnels fédéraux et les services de libération conditionnelle, en partenariat avec les organismes postpénaux, sont parvenus à affronter ces difficultés et améliorer leurs services et programmes de manière soutenue en vue d'aider la majorité des délinquants à adopter un comportement prosocial et, éventuellement, respectueux des lois.

Il n'est jamais facile de faire avancer les choses dans le domaine correctionnel, surtout lorsque la clientèle est constituée des criminels les plus endurcis du pays et lorsque certains d'entre eux sont tristement célèbres et détestés par la population. Bien des gens, même des personnes oeuvrant dans les services correctionnels, s'opposent parfois à ce qu'on apporte une aide quelconque aux délinquants sous responsabilité fédérale. J'ai eu l'occasion d'apprendre cela très tôt dans ma carrière lorsque je suis entré au service du Pénitencier de Dorchester, un établissement de plus de 100 ans à cette époque et qui continue d'opérer à ce jour. En ces années-là, les mesures de sécurité strictes et les activités de nature occupationnelle ou de formation professionnelle étaient en vogue et on tolérait mal que quelque chose de plus vienne s'ajouter à la routine quotidienne. Bon nombre des agents de correction n'étaient pas très favorables au rôle joué par les agents de libération conditionnelle en établissement (ALCE, alors appelés agent de classement des détenus), alors que certains exprimaient une nette hostilité à leur égard. Il incombait donc aux quelques ALCE en place de faire preuve de l'engagement, de la détermination et de la patience requis pour s'acquitter de leur tâche.

Il va sans dire qu'un environnement aussi répressif avait des incidences négatives sur les détenus aussi. Seule une minorité d'entre eux pouvaient espérer obtenir une libération conditionnelle; la grande majorité organisaient leur vie comme s'ils allaient purger quelques années, sinon de nombreuses années encore. De ce fait, le « code des détenus », éviter de parler au personnel et être le moins coopératif possible, était manifestement et solidement implanté, et rares étaient les détenu qui appréciaient une rencontre avec un ALCE.

Quelques années plus tard, vers la fin des années 1960 et au début des années 1970, un changement très positif et progressiste s'est produit au sein des services correctionnels fédéraux avec l'ouverture et l'agrandissement de plusieurs établissements à sécurité moyenne et minimale un peu partout au Canada. D'excellentes possibilités s'offraient dorénavant tant pour les détenus que pour le personnel « d'élargir leurs horizons ». De nombreux détenus, notamment les plus jeunes, avaient l'occasion d'échapper à l'atmosphère répressif des établissements à sécurité maximale en obtenant un transfèrement dans un établissement d'un niveau de sécurité inférieur et en profitant de programmes et de services de counseling si nécessaires; parallèlement, un monde s'ouvrait pour de nombreux employés qui découvraient toute une gamme de possibilités au plan professionnel, tant au chapitre de la diversité dans le travail qu'au chapitre des promotions. J'étais du nombre des privilégiés appelés à travailler à un nouvel établissement correctionnel moderne, l'établissement à sécurité moyenne de Springhill (Nouvelle-Écosse) où j'ai successivement occupé les fonctions de superviseur des services de classement et de psychologie, de responsable des unités de vie, de directeur adjoint puis, finalement, de directeur d'établissement.

Au cours de cette même période, le Service canadien des pénitenciers (aujourd'hui le Service correctionnel du Canada) mettait en place et faisait la promotion d'une politique portant sur des modèles organisationnels qui favorisaient une interaction constructive entre les détenus et le personnel. De cette manière, non seulement un environnement plus prosocial aurait-il des incidences positives sur l'ensemble de la population carcérale, mais il favoriserait aussi, au plan individuel, qu'un plus grand nombre de détenus que par le passé parviennent à réorienter leur vie. Parallèlement, cela permettait aux membres du personnel de profiter d'un plus grand nombre de possibilités d'apprentissage que celles auxquelles ils avaient accès traditionnellement. Par surcroît, un avantage de plus, l'infâme « code des détenus » ne serait plus aussi solidement implanté ni aussi omniprésent. C'est ainsi qu'on a instauré le modèle des unités de vie dans les établissements à sécurité moyenne et minimale, et le modèle de l'approche d'équipe dans les établissements à sécurité maximale. À Springhill, nous avons même fait l'expérience à long terme d'une communauté thérapeutique. L'approche la plus en vogue aujourd'hui est celle de la gestion par unité.

C'est aussi au début des années 1970 que la Commission nationale des libérations conditionnelles a entrepris de tenir des audiences dans les divers

établissements, ce qui permettait enfin aux commissaires de mener leurs audiences en présence du détenu et des ALCE. Avant cela, toutes les décisions étaient prises à l'issue d'une étude de dossier seulement. Ainsi et heureusement, ces nouvelles audiences en face à face ont permis non seulement d'humaniser le processus et de parvenir à une connaissance plus approfondie des cas, mais elles ont aussi donné lieu à une augmentation spectaculaire des mises en liberté sécuritaires. C'est aussi au milieu des années 1970 que la CLNC a entrepris de régionaliser ses opérations, une mesure qui demeure en place 30 and plus tard.

Comme complément à cet accent accru sur la mise en liberté sous condition et voulant assurer la prestation de services correctionnels efficaces à l'intention des délinquants sous responsabilité fédérale, les organismes du secteur bénévole (l'Association des Services de réhabilitation sociale du Québec, la Société John Howard, l'Armée du Salut, la Société St-Léonard du Canada, et d'autres) ont accru leur capacité d'accueil en maison de transition et ont peaufiné leurs services. Parallèlement, le SCC mettait en place ses centres correctionnels communautaires (CCC) dans la plupart des grandes villes canadiennes. Toutes ces installations communautaires permettaient non seulement d'accueillir des détenus en semi-liberté, mais aussi de leur offrir des programmes de préparation à la vie active et d'autres au cours de cette phase de transition. Cette approche demeure en place aujourd'hui, mais une forte proportion des lits sont occupés par des personnes jouissant d'une libération d'office assortie d'une assignation à résidence, ce qui peut avoir des effets négatifs sur l'atmosphère qui prévaut au sein des résidences.

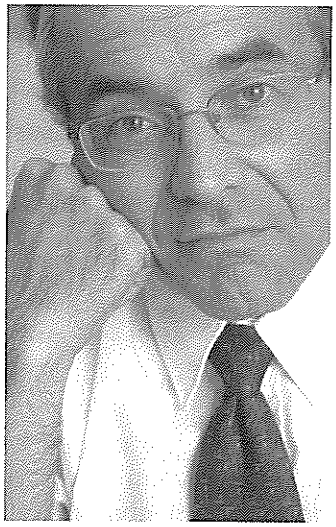
Je suis totalement convaincu que l'élaboration et l'adoption d'un énoncé de mission a constitué le point tournant le plus important et le plus positif pour le SCC au cours des quatre dernières décennies du siècle dernier. Le processus d'élaboration de l'énoncé de mission a été initié sous le leadership du commissaire Ole Ingstrup, qui avait été recruté au poste de conseiller spécial par le commissaire Don Yeomans en 1984, mais il n'a été complété, approuvé et mis en oeuvre qu'au début de 1989. (Au milieu des années 1980, Yeomans avait quitté le SCC et Ingstrup avait assumé la présidence de la CNLC pour deux ou trois ans avant de revenir au SCC au poste de commissaire)

Cet énoncé affirme sans équivoque la mission et les orientations du SCC. Alors que le SCC semblait antérieurement satisfait de « gérer » la peine imposée par la cour en fonction des lois, des politiques, des lignes de conduite et des pratiques applicables, l'énoncé de mission stipule maintenant que tout le personnel correctionnel doit inciter activement et aider les délinquants à devenir des citoyens respectueux des lois. En outre, il exige qu'on travaille en équipe et en collaboration, tant à l'intérieur qu'à l'extérieur du Service, qu'on offre à l'intention des délinquants des programmes et des approches efficaces et fondés sur la recherche, et que tous aient à rendre compte, tant les détenus que le personnel que les gestionnaires jusqu'au niveau du ministre. De fait, depuis 1989, chaque Solliciteur général (aujourd'hui le ministre de la Sécurité publique) a apposé sa signature à l'énoncé de mission du SCC, voulant ainsi démontrer son approbation et son appui pour les dispositions qu'il contient.

Alors qu'il était président de la CNLC, Ole Ingstrup avait complété un exercice semblable d'élaboration d'un énoncé de mission applicable à la Commission, mais il a fallu le renouveler et le remanier au milieu des années 1990 afin de le rendre plus compatible avec celui du SCC et avec la nouvelle Loi sur le système correctionnel et la mise en liberté sous condition de 1992.

Je suis reconnaissant d'avoir pu occuper mes diverses fonctions et d'avoir eu l'occasion de contribuer à cette évolution ou à l'exécution de cette œuvre en voie de réalisation. Espérons que le travail se poursuivra.

Where Is God in This Picture?



By Reverend Terry Richardson,

Director General, Chaplaincy and Restorative Justice,

Correctional Service of Canada

By profession, I am a Lutheran pastor. In July of 2006 my faith community recognized the 25th year of my ordination. Nine of those years were spent in the parish and sixteen as a chaplain with the Correctional Service of Canada (CSC).

Seminary taught me that people are people wherever one happens to work, at the same time recognizing that there are unique contexts for leadership by spiritual caregivers. Typical examples of such settings are: correctional, military, hospital and university. These are known as locations for "chaplaincy" which indicates working with an essentially closed population.

The work of spiritual care-giving or ministry, as it is more simply called, is more immediate in correctional settings (prison or community) than in the parish because the pain and brokenness of the offender, victim and community is seldom hidden.

The correctional system has left a deep impact on me. I began as a volunteer and continue as a director general. Many titles have been used to make reference to me with respect and a sense of humour: chaplain, sky pilot, padre and father. I have used numerous expressions that have been helpful in dialogue in order to get to the point in the sometimes "raw" correctional environment: If nothing changes, nothing changes; If there is too much, something is missing; You are as sick as your biggest secret; You talk the talk, do you walk the walk? Nobody leaves alone.

Last year the Restorative Justice Branch was added to my responsibilities. This calls me to be personally open to new directions and to practice careful listening with people both within and outside of my context as we work toward "grabbing the future" as the words of the CSC crest, Futura Recipere, suggest.

The work of spiritual care-giving or ministry, as it is more simply called, is more immediate in correctional settings (prison or community) than in the parish because the pain and brokenness of the offender, victim and community is seldom hidden. The conviction is a fact. Incarceration or community supervision is a fact. Victimization is a fact. Consequently, the question that I have posed countless times could also be asked of me: "Where is God in this picture?"

Personal Response to the Context

Working in an environment of angry, depressed and troubled people can have a toxic effect. This is especially true when many hours are spent listening to stories and seeking to develop relationships that might open up positive life choices for them. Rather than bring home the effects of an incarcerated workplace, my choice has been to establish an intentional balance to life. This has meant keeping a sense of humour, maintaining an outside community of friends and family, and I have also used songs and "memos." The songs and memos have helped me think about where God is in this picture.

Music is a vehicle of expression that helps process interior experiences on a unique level. While an institutional chaplain, I wrote and sang many songs to prisoners, volunteers, community groups, congregations and anyone else interested. These songs were born during my ministry in prison. Some of the titles are examples of this method of marking my journey: Faces; Your Keeper is Your Brother; Life Carved in Leather; Story on My Skin; Justice: Reach Out.

Ever since the beginning of my pastoral career, I have also written monthly articles for the congregation's newsletter. This activity evolved into what I call the Chaplain's Memo and has followed me to this day. Topics occurring to me from month to month receive a page of reflection from my point of view for anyone who cares to stop and read for a few minutes. There have been a lot of themes: the prisoner, encounters, prayer, evil, God, and so on. But over the years, it has been the people in corrections who have made the deepest impact on me.

The People

I have learned how to find my way through the correctional maze by absorbing and living out the practical wisdom and guidance of senior managers and staff who have genuinely cared for the person in front of them whether staff member or offender. I have also marveled at the commitment of so many institutional and community staff and their steady determination to insist on positive change for safer communities.

Watching psychologists in their group work and collaborating with them in special circumstances has taught me more about careful listening, boundaries and life balance, than I have learned elsewhere.

I have been humbled by the devotion and dedication of chaplains and elders and volunteers who are always available and provide a human service that is unique. They never give up on people, even in seemingly impossible circumstances.

And I have been inspired by offenders and victims who have taken the risk of sharing the story of their lives with me. Those who took me into the dark corners of their own experience sometimes left me shaken and yet, they are finding ways to move on in their own lives. In such struggle I have seen the fingerprints of God. These individuals insist on moving forward in their journeys despite the hardships they bear. They have chosen an approach to life that forges new beginnings: speaking the truth, sharing the pain, taking responsibility, choosing life.

Corrections is such a challenging field because it is about people and their lives and decisions. No one person can do all that is required to provide the correctional service necessary. My professional life is like being in a large family: joining hands, sharing strength, grieving losses, learning and moving forward.

I don't know who authored this poem, but it explains what I am trying to say in another way:

I looked for God, but God I did not see
I looked for my soul, but my soul was
hidden from me
I looked for my brothers and sisters
and there I found all three.

Où est Dieu dans tout ça?

Par révérend Terry Richardson,

directeur général, Aumônerie et justice réparatrice,

Service correctionnel du Canada

Je suis pasteur luthérien, de profession. En juillet 2006, mon groupe confessionnel a salué les 25 ans de mon ordination. J'ai passé neuf ans dans une paroisse et six ans comme aumônier au Service correctionnel du Canada (SCC).

Le séminaire m'a appris que les gens sont partout les mêmes, peu importe l'endroit, tout en reconnaissant qu'il y a des cadres particuliers pour la direction spirituelle. Prenons notamment les établissements correctionnels, l'armée, les hôpitaux et les universités. Il y a là une « aumônerie »; on a donc affaire à une population essentiellement fermée.

Le système correctionnel m'a profondément marqué. J'y ai d'abord été bénévole avant d'y occuper des fonctions de directeur général. Avec respect et humour, on m'a appelé, à tour de rôle, aumônier, pilote du ciel, *padre* et père. De nombreuses expressions m'ont aidé à ouvrir le dialogue pour me faire comprendre dans un milieu correctionnel parfois « cru ». En voici quelques exemples : Si rien ne change, rien ne change. De l'abondance naît le vide. Ta maladie est aussi grave que ton plus grand secret. Mets-tu en pratique ce que tu prêches ? S'en sortir ensemble.

Le conseiller spirituel ou le pasteur agit davantage dans l'immédiat dans un milieu correctionnel que dans une paroisse parce que la douleur et la souffrance des délinquants, des victimes et des collectivités sont rarement cachées.

Depuis l'an dernier, j'assume aussi les responsabilités de la Direction de la justice réparatrice. Je dois ainsi être personnellement ouvert aux nouvelles orientations et être à l'écoute des gens, tant à l'interne qu'à l'externe, pour aller de l'avant et « prendre en main son avenir », comme le suggère le logo du SCC.

Le conseiller spirituel ou le pasteur, comme on l'appelle plus simplement, agit davantage dans l'immédiat dans un milieu correctionnel (prison ou collectivité) que dans une paroisse parce que la douleur et la souffrance des délinquants, des victimes et des collectivités sont rarement cachées. La condamnation, l'incarcération ou la surveillance dans la collectivité, la victimisation sont bien réelles. Je me suis donc demandé et fait demander, à maintes reprises, où était Dieu dans tout ça.

Comment je me suis adapté au contexte

Travailler auprès de personnes en colère, déprimées et troublées peut avoir un effet toxique. C'est particulièrement vrai quand on passe de nombreuses heures à écouter des histoires et à essayer d'établir avec les délinquants des relations qui pourraient leur offrir des choix de vie positifs. Plutôt que de ramener à la maison ce que je vivais dans un milieu de détention, j'ai choisi d'établir un équilibre dans ma vie. Ainsi, j'ai gardé un sens de l'humour, maintenu un cercle extérieur d'amis et de proches, et rédigé des chansons et des notes. Celles-ci m'ont aidé à réfléchir à la place de Dieu dans tout ça.

La musique est une forme d'expression qui nous permet de « dédramatiser » nos expériences intérieures. Quand j'étais aumônier en établissement, j'ai écrit et chanté de nombreuses chansons aux détenus, aux bénévoles, aux groupes communautaires, aux congrégations et aux autres intéressés. Ces chansons ont vu le jour durant mon séjour, comme pasteur, en prison. Certains des titres des chansons sont évocateurs de ma démarche d'ancrage : Faces; Your Keeper is Your Brother; Life Carved in Leather; Story on My Skin; Justice: Reach Out.

Depuis mes débuts en pastorale, j'écris aussi tous les mois des articles pour le bulletin de ma congrégation. Cette activité est devenue ce que j'appelle la Note de l'aumônier, qui m'a suivi jusqu'à aujourd'hui. Chaque mois, j'y donne mon point de vue sur des sujets qui me viennent à l'esprit. Quiconque s'y intéresse peut prendre quelques minutes pour la lire. J'ai abordé de nombreux thèmes : le détenu, les rencontres, la prière, le diable, Dieu, etc. Mais au fil des ans, ce sont les gens aux services correctionnels qui m'ont le plus marqué.

Les gens

J'ai appris à faire mon chemin dans le dédale correctionnel en m'imprégnant de la sagesse et de l'orientation des cadres supérieurs et des employés véritablement soucieux de la personne à qui ils avaient affaire, qu'il s'agisse d'un membre du personnel ou d'un délinquant. J'ai aussi été conquis par le dévouement de nombreux agents en établissement et dans la collectivité, et par leur détermination constante à vouloir un changement positif pour que les collectivités soient plus sûres.

En observant les psychologues dans leur travail en groupe et en collaborant avec eux dans des circonstances particulières, j'en ai appris sur l'écoute active, les limites et l'équilibre plus que nulle part ailleurs.

Je me suis senti humble devant la dévotion et le dévouement des aumôniers, des Aînés et des bénévoles qui sont toujours disponibles et offrent un service humain sans pareil. Ils ne baissent jamais les bras, même quand tout semble impossible.

Et j'ai été inspiré par les délinquants et les victimes qui m'ont fait confiance en me racontant leur histoire. Ceux qui m'ont emmené dans les coins sombres de leur vie, d'où j'en suis parfois sorti bouleversé, et qui ont, malgré tout, trouvé la force de s'en sortir. J'ai vu la marque de Dieu. Ce sont des gens qui poursuivent leur chemin malgré le fardeau qu'ils portent. Ils ont opté pour un nouveau départ : dire les vraies choses, partager la douleur, prendre ses responsabilités, choisir la vie.

Le travail dans le domaine des services correctionnels est exigeant parce qu'on a affaire à des personnes, à leur vie et à leurs décisions. Une seule personne ne peut pas suffire à la tâche. Professionnellement, c'est comme si je faisais partie d'une grande famille : joindre les mains, partager les forces, consoler les pertes, apprendre et se dépasser.

J'ai appris à faire mon chemin dans le dédale correctionnel en m'imprégnant de la sagesse et de l'orientation des cadres supérieurs et des employés...

Je ne sais pas qui est l'auteur de ce poème, mais il traduit bien ce que j'essaie de dire autrement :

J'ai cherché Dieu en vain
J'ai cherché mon âme, mais elle était cachée
J'ai cherché mes frères et sœurs
Et là j'ai tout trouvé.

A Day in the Life of a Provincial Court Judge

By Judge David P. Cole

* – I became a lawyer in 1975, practicing exclusively as criminal defence counsel until my appointment as a judge of the Ontario Court of Justice (Provincial Division) in 1991[1]. What follows is a narrative of a typical day in one court at the Metro East (Scarborough) Court facility in Toronto, with its major phases, players, and communications with one another and before the bench.

When I arrive at the court building each morning, I find on my desk in my office the list of the cases scheduled to be heard that day (the "docket"). On the day that I shall describe (September 1, 1998), I had to deal with the following charges: failing to appear (Mr. Ashbury); impaired driving (Ms. Andrus); breach of probation (Mr. Burns); assault (Mr. Fisher); mischief to private property/prowl by night (Mr. Goode); and two young offenders, K.B. and R.S.[2] Crown attorneys are full-time or contract lawyers currently employed in the Scarborough Crown attorney's office.

On this particular day, Ms. Crisante was the Crown assigned responsibility for prosecuting all the new cases on the trial list. Normally—though, regrettably, by no means always—the trial Crown is given the Crown files ("briefs") for preparation the afternoon before the court hearing. The paperwork for even the simplest of cases is often quite voluminous. For example, the charge of failing to appear was legally quite simple: Could the Crown establish to my satisfaction that Mr. Ashbury had an obligation to appear in court and that he had failed to do so? Once the Crown could prove these things, the Criminal Code directed that Mr. Ashbury would be found guilty of this offence unless he could establish that he had a lawful excuse for not appearing.

However, there is considerable paperwork necessary to prove such a charge; at a minimum, the Crown would need certified copies of the form of the accused's release on bail, a certified copy of the charge that he failed to appear, and a certificate of the court clerk indicating that he had not appeared on the scheduled date. The trial Crown would then have the responsibility for checking to see that the investigating police officer (or, in this case, the accused's probation officer) had included all the necessary documents in the brief. Failure to do so would likely result in an aborted prosecution.

Unlike some European systems in which the presiding judge is deeply involved in investigating every detail of cases from their outset, the Canadian justice system is designed in such a way that the judge is supposed to know as little as possible about the cases he or she is assigned. Thus, I would not usually see much, if any, of this paperwork prior to the

trial. Similarly, fairly elaborate steps are taken to ensure that I would not be assigned to try cases of which I have any knowledge.

Before going into court, I normally do not look at the docket of the new cases I am about to try. The only cases with which I was familiar ahead of time were those concerning the two young offenders, K.B. and R.S. I had already started these cases on prior occasions, and these were the only cases to which Mr. Kerr, the other Crown listed on the court docket, had been assigned. As the day developed, he dealt with some of Ms. Crisante's cases in order to maximize efficient use of court time. She prepared herself to respond to arguments that defence counsel in Ms. Andrus's impaired driving case (driving with over .80 milligrams of alcohol per millilitre of blood) announced at the last minute that he was going to raise.

Duty counsels are lawyers mandated to provide advice or advocacy services to accused making their first appearance or in bail court. They are not usually assigned to trial courts. Because the Scarborough court has a great many accused who tend to be unfamiliar with Canada's justice system[3], officials of the Ontario Legal Aid Plan have assigned five duty counsel to the courthouse on a daily basis. One of these is supposed to act as a "standby" duty counsel, in part being available to assist un-represented accused appearing in trial courts.

As the first item of business, the Crown usually calls up the cases that defence counsel or the investigating police officer has not spoken to her about, to find out the status of the cases. When Mr. Burns's case was called, he told me that he had not been able to arrange for a lawyer to represent him on the charge of breaching a probation order because he could not afford the $25 fee to process his application for legal aid. He asked to have his case adjourned. I examined the paperwork, which disclosed that Mr. Burns was charged with not paying the restitution that was part of a previous probation order. It also revealed that he had agreed several months earlier that he would proceed to trial on September 1 regardless of whether he had counsel. If I were to find Mr. Burns guilty, he faced the possibility of going to jail (depending on the circumstances of the breach and his previous record). Nevertheless, given his previous indication that he was prepared to proceed to trial without counsel, I ruled that unless there was some extraordinary reason for him to have another chance to get a lawyer, I would not grant a further adjournment. Mr. Burns then told me that since the charge had been laid, he had paid off the outstanding order for restitution. At this point, Crown counsel intervened, saying that her brief indicated that while partial restitution had been made, a balance of $200 remained outstanding at the time the brief had been prepared, and that unless she received further information, she was not prepared to withdraw the charge. Mr. Burns said, "My old lady took a hundred dollar money order down to my p.o. [probation officer] last week."

I told the accused that while, in his mind, it might be true that he had "fixed it ... with his p.o.," could he please explain how he could have done this while $100 apparently remained outstanding? In response, Mr. Burns simply stared at the floor. The Crown explained to the accused that the probation officer had caused the accused to be charged because, in the probation officer's opinion, Mr. Burns had wilfully declined to complete paying restitution when he was in a position to do so. I told Mr. Burns that it was up to the Crown, not his probation officer, to decide whether the charge would be proceeded with, but that we should wait for the probation officer to arrive at court (due to pressure of work, they are almost always late) to further update the Crown. Mr. Burns then told me that he could not wait because he had to go to work and asked what he "would get ... if I cop [plead guilty] to the charge."

Such an inquiry by an accused is quite common and raises several difficult issues for the court system. First, while I told Mr. Burns that I would not and could not tell him in advance what I might do if he were to plead guilty, strictly speaking, this was not true. There are many cases in which I am consulted in advance if a plea bargain

is contemplated. I did not feel comfortable doing so in this case because Mr. Burns had neither his own counsel nor duty counsel to advise him. For this reason, I sent him off to the duty counsel office in the hope that the standby duty counsel might be able to advise him. Unfortunately, he returned to court a few minutes later, saying that he had been told that the standby duty counsel was busy and would not be available for some time, if at all.

Luckily, by this time, Mr. Burns's probation officer arrived. Crown counsel suggested that the case be "held down" to allow the parties the opportunity for some brief discussion. Although I was not privy to discussions among the accused, the probation officer, and Crown counsel, they eventually presented me with a compromise. Mr. Burns's case would be adjourned for thirty days. If he voluntarily performed twenty-five hours of community service prior to the return date by way of extra punishment for not having done what he was supposed to do, the parties agreed that the criminal charge would be withdrawn on the next appearance.

This case neatly illustrates several of the time allocation dilemmas regularly faced by the criminal justice system (and the extent to which the professionals are driven by the need to use court time as efficiently as possible). Given the relative unimportance of this case compared with the others on the list, the Crown likely had very little interest in prosecuting Mr. Burns that day, particularly since, being un-represented, his case would probably take about ninety minutes to try. According to the Ministry of the Attorney General's current guidelines, a court day is supposed to consist of eight hours of trial time[4], yet after extensive discussion in our court's delay reduction committee, our trial coordinator has been instructed to "load" fourteen hours of trial time per day into a court such as 404.

Once again, Crown counsel assigned to 404 court on that date, facing another list containing at least fourteen hours of cases, would not likely have much interest in prosecuting the charge. And so it goes ... Did Mr. Burns know or guess some or all of this? Did he put off the day of reckoning by luck or by design? I do not know for sure. Ironically, in our adversarial system, the judge in the courtroom is usually the person who knows the accused the least. Apart from the brief series of questions I asked in response to his request for an adjournment, I am not supposed to engage in much dialogue with an accused. Because of this, over the years, I have learned to try as hard as I can to resist the quite human temptation to speculate and judge without sufficient evidence.

Although this is usually an acceptable way of proceeding on a given day, problems can and do occur when cases are not completed on the same day that they start. This is particularly the case when the evidentiary portion of a trial must be remanded to another day. This happened in the case of Ms. Andrus. The accused's lawyer brought a pre-trial motion to dismiss the charges on the basis that she had not been given her constitutionally guaranteed right to counsel. Because of the time needed to deal with the cases ahead of hers, her case could not be started until the afternoon (this is quite typical). The evidence called by counsel for the accused on the motion to stop the proceedings (on the basis that her Charter rights had been violated) was completed. In reply, most of the evidence of the main police officer was given. Unfortunately, because of insufficient time, the remainder of his testimony (including cross-examination by the defence) had to be deferred to March 4, 1999. After taking ten minutes of court time to twist the trial coordinator's arm and those of the lawyers, this was the earliest date that the time required could be matched with the schedules of the witnesses, the lawyers, and myself.

In such cases, in addition to taking what I hope are accurate notes of what is said by each witness as they give their evidence, as soon as I leave court at the end of the day, I try to make notes immediately of how I am responding to the evidence as it is unfolding (recognizing, of course, that my preliminary impressions may change during the case). This includes such

things as whether I think there is an adequate connection between Fact A and Fact B, why certain questions have not been asked (or properly answered), and, most importantly, what I think of the witnesses' credibility. While I try not to make up my mind until I have heard all the evidence and the lawyers' submissions, the reality of the situation is that given these lengthy delays and the danger of wrongly convicting an innocent person, most judges in this position would be more likely to acquit when the case is resumed six months later. This kind of ongoing resource problem is something that all court professionals are well aware of, and that is likely why the Crown seemed resigned or disappointed while the defence seemed quietly elated.

However, despite repeated requests, no more resources are likely to be made available in the near future. As a result, cases such as this one will tend to "slip through" the system. What happened in Ms. Andrus's case was this: as soon as defence counsel decided that he wished to launch a "right to counsel," the court rules required him to serve a formal "Notice of a Constitutional Question" on the Crown and with the court. This notice must be filed at least fifteen days prior to the trial date in order to give Crown counsel an opportunity to prepare to respond to the motion. He did not do so, asking that I permit him to proceed with his motion despite his failure to file it on time (which I have the power to do). He claimed that the reason he did not do so was simple inadvertence on his part. Crown counsel responded by saying that this was "too bad. The rules are there for a purpose. I am sick and tired of defence counsel going about their business as if the rules don't exist."

While I appreciated defence counsel's apparent candor, how did this help me in deciding whether to allow him to argue the motion? Although I have not seen him for many years, defence counsel is known to me as someone whose word can be accepted. Was he subtly reminding me, as an ex-defence counsel, that I, too, might have made such a slip and that I should not show him up in front of his client? Was he signaling me that he wasn't really serious about the motion and was just going through the motions of presenting a defence? (After all, "right to counsel" issues are probably the most frequently argued motions under the Charter. A counsel as experienced as himself surely would have spotted the issue earlier. From what I know of the case to date, that should have been easy.) Or was he signaling perhaps that his client was not paying him as quickly as he would have liked and that he was "playing hardball" with her, refusing to file the motion until she had completed paying his retainer? And how should I have responded to the Crown's position? Should she, as soon as she realized that the defence had filed a motion, have filed a written application to dismiss it as being beyond the time frame allotted by the rules of procedure? That is doubtful unless this was an extremely serious case, and apart from the clerk in the office making sure that the motion was put in the Crown brief, no one in the Crown's office would have looked at the motion until late on August 31. What if the motion ultimately turned out to be valid and the charges were dismissed for a breach of the accused's constitutional rights? Should I have refused to hear it simply because it was not filed on time? What have I learned about this for the future? Should I be more careful with this particular lawyer if I see him in the future? Should I modify my practice in such cases to penalize counsel for sloppy conduct by saying that I will hear only out-of-time motions if they agree to pay for a complete transcript if the case has to be remanded to another date? Or might that only penalize the poor? Should I have ordered a transcript (recognizing that, unlike Crown or defence, no one has ever formally told me that I am on a limited budget, though I know this to be the case) so that I am not forced to rely on my substantive notes of the evidence when the case is resumed?

The court clerk occupies a very important position. In addition to ensuring that all the various court documents are located and brought to court each day by the scheduled start time, her job is to ensure that each time I make an order, it is accurately reflected in the court records. This may be as simple as ordering that a case be remanded to another date, or it may be

very complicated, such as ensuring that varying terms of imprisonment or probation are properly apportioned to each charge.

In order to protect against clerical errors, many of the orders that I make—particularly penalties of various forms—are presented to me at least twice for signature: once when the court clerk writes up what I have said, and again when the formal order has been typed. On a very busy day, I might be asked to sign upward of fifty orders. Because I have realized that it causes all kinds of problems if I stop to read each paper in detail, like many other judges, I have tacitly condoned the practice of agreeing to sign them as they are prepared. The result is that I am constantly having such papers thrust at me throughout the day, even when I am on the bench trying to concentrate on the proceedings. According to Ministry statistics, in 1997, I dealt (however briefly) with some 2400 cases. In practice, this means that I rely heavily on the court clerk and the support staff who type the orders to ensure their accuracy. Like other judges, I often worry about cases in which I may have made mechanical errors (such as errors writing the warrant) which may have resulted in an improper process being applied (or not applied) against an accused.

As I have previously mentioned, the trial coordinator has been instructed to put more cases onto a trial list than can actually be dealt with. What happened with the rest of the cases is a good illustration of how this kind of daily gamble works.

While Ms. Crisante was outside the courtroom "brokering" Mr. Burns's case, as usually occurs, she was also able to plea-bargain or divert all but Ms. Andrus's case. Some of the cases were relatively simple for her to deal with. In Mr. Fisher's case, the alleged assault victim (complainant) did not turn up at court, which happens in about 40 percent of cases. Even when complainants do come to court, as occurred in Mr. Goode's case, they may tell the Crown that they would be satisfied with a reduced charge.

In that case, Mr. Goode, the accused, while drunk and despondent about breaking up with his girlfriend, had hung around her townhouse one night intending to persuade her to resume their relationship. When she spurned his advances, he smashed the windshield of what he assumed was her new lover's car. What the ex-girlfriend wanted was an order for the accused to stay away from her. What the male complainant wanted was the cost of repairing his car. After verifying that the accused had lived up to the term of his bail order that required him not to communicate with his ex-girlfriend, Crown and defence counsel jointly proposed that I order the accused to post a "peace bond." In exchange for having the charge withdrawn, the accused would promise to keep the peace and be on good behaviour for one year. If he did not live up to the conditions of the order (staying away from the two complainants and making restitution for the windshield), he would stand to lose $500 (the amount of the peace bond) and would be liable to be prosecuted for being in breach of the bond. All parties left the courtroom hand in hand.

Mr. Ashbury's case raised different issues. Given the carnage on our roads, police forces tend to be very intolerant of suspected drunk drivers. Even where there are few signs of impairment and the accused's breath reading is just over the limit (as happened here), police are under instructions to lay charges rather than sending the accused home in a cab. Because of aggressive lobbying by groups such as MADD (Mothers Against Drunk Driving), for many years, Crown counsel have been under a directive to prosecute vigorously all drinking and driving charges. In part because of their lobbying, the severity of the mandatory minimum penalties has been increased considerably.

Unlike most other criminal charges, large numbers of middle-class people are charged with drinking and driving offences. As they wish neither the inconvenience of being without a license (up to a year for a first offender) nor the stigma of a criminal record, they are often prepared to invest considerable resources in defending themselves against these charges. Thus, in most cities, there are specialist defence counsel who devote much of their practices to defending drinking drivers. They frequently employ expert toxicologists whose role is to uncover technical flaws in the Crown's case.

Once again, Crown counsel was faced with a dilemma that day. As only one other court had offered help (by now it was about noon), she could not send out Mr. Ashbury's case (or that of Ms. Andrus) to another court. Thus, she was virtually forced to enter into a plea bargain with Mr. Ashbury's very skilled defence counsel. Although I was not present during the plea bargaining (which all happened in Crown counsel's office), having done it myself for some sixteen years, I can imagine that the conversation went something like this (salty language deleted):

Crown: If I agree to drop the charge of failing to appear, will your client plead to the over .80?
Defence: Forget it, I've got my tox [expert toxicologist] on standby, and he'll be able to provide "evidence to the contrary."
Crown: Well, in that case, I'll proceed on both, one at a time. Even if I lose one, if we don't finish today, you'll just have to come back. I've got to get something out of this.
Defence: You might lose both. You know these charges have been going since '92, and they might get thrown out for undue delay.
Crown: Yeah, but that's only because your client disappeared and wasn't re-arrested until '97. Besides, you haven't filed a motion under the new rules, so you can't argue it anyway.
Defence: Judge Cole will let me abridge the time. You know these ex-defence counsel...
Investigating Officer: Look, I've got better things to do than watch you two try to out-macho one another. I've been talking to the accused outside. He isn't a bad guy. He's got no other driving record that I know of and the [breath] readings were pretty low. I'm not interested in blood. I'll be content as long as he gets a big fine.
Crown: All right, with this reading, the new directive allows me to let him plead to careless driving under the provincial Highway Traffic Act. But he'll have to plead to the fail to appear.
Defence: Sounds good to me. At least, this way, he'll keep his license. Give me ten minutes to talk to him.

The bargain ultimately proposed was as follows: the Crown would allow the accused to plead guilty to the lesser charge of careless driving. Both parties would agree that the accused should be fined $1000. The accused would plead guilty to failing to appear; in exchange, Crown counsel would agree not to ask for jail but would join in asking for a fine of $300. The accused would be given six months to pay. According to the rules that are expected to guide me, I may depart from plea bargains if I find them offensive, but, in order for all parties to know what to expect, I normally go along with them. I was entirely content to do so in this case. On the basis of what I was told, the proposed disposition seemed entirely sensible, having been made by experienced counsel well aware of the strengths and weaknesses of their case.

During the time that Ms. Crisante had been negotiating outside court, Crown counsel Mr. Kerr was speaking to the continuing cases of the two young offenders (R.S. and K.B.) assigned to me. I describe these two cases in some detail not because young offenders are generally more violent (that is a myth unfortunately perpetuated by those who seek to make political hay through scare-mongering), but because they illustrate the range of cases with which I deal on a daily basis.

In February 1997, I found R.S. guilty of armed robbery and aggravated assault. The accused had begun to demonstrate a variety of disturbed behaviours from about age 10. He was hospitalized from time to time, complaining that he had visual hallucinations and that demons were controlling him. He identified his parents as persecutors and from time to time had little to do with them, withdrawing to his room for days on end. One night in June 1996, just after his fourteenth birthday, he told his father he was going to the neighbourhood convenience store. He concealed a knife in his jacket, which he brandished at the proprietor. The accused fled the store, having taken 50 cents that happened to be sitting on the counter top. He was pursued by a friend of the proprietor. As they reached the other side of the road, R.S. was tackled to the ground. He stabbed his pursuer several times, necessitating some forty stitches. Some of

the victim's scarring was permanent. The accused was arrested a few minutes later. When he was taken to the police station, he gave some coherent responses to questions asked by the officers. Sometimes, however, he spontaneously broke into monologues, claiming that "Kurt Cobain told me that the guy in the store was the Devil, and that I had to kill him or I would go to hell forever."

At first, there were questions about whether the accused was fit to stand trial. After some period of assessment in a psychiatric facility, during which he was assessed as suffering from a severe form of schizophrenic disorder, he was stabilized on medication so that he was deemed fit to stand trial. As the doctors who assessed him considered that he had been insane at the time he committed the offences, he raised the defence of insanity at his trial. I rejected that defence and sentenced him to 2 1\2 years.

The Young Offenders Act provides that an accused in these circumstances has the right to have his status reviewed every six months. R.S. has insisted on availing himself of that right despite the fact that, for many months, he refused to take the medication that he so obviously needed. In his untreated state, he was prone to assaulting other prisoners and staff, which of course meant that he could not put together any release plan that had any hope of success. According to a report that was forwarded to me as part of his review, progress seemed to have been made. He was now taking a medication that agreed with him (many schizophrenia medications have unpleasant side effects), and the social workers reported that he had become much easier to manage. Through his counsel, he agreed that his case should be remanded for another six months.

The second young offender I dealt with that day was K.B. She was born in another country, and her father died in an accident when she was a few months old. Because her mother objected to that society's deeply rooted custom that women should not remarry, she elected to come to Canada, leaving the 6-month-old K.B. in her grandparent's care. Although K.B. saw her mother every year for a few weeks, she did not live with her until she was 6 years old. Both agreed that, as unfortunately happens so frequently in these situations, mother and daughter did not bond well. This was compounded by the fact that soon after they began to live together, the mother became involved with a man she ultimately married.

Sometime after K.B. started high school, she began to go through normal teenage rebellion, albeit in a very moderate form. Her parents objected to the fact that she began to go out with J.C., a boy from a different culture. They told her that she could not continue the relationship. There were fights, often of a physical nature, between mother, stepfather, and daughter. In April 1998, the parents told K.B. that she would be grounded until she stopped seeing J.C. The young couple met secretly and persuaded one another that the only way out was for them to murder her parents and get their money so that they could flee to the United States, where they "could live happily ever after."[5] After discussing this for a few days, K.B. let J.C. into her house in the middle of the night. He crept into the parents' bedroom and started to slash at them while they were sleeping, fortunately not fatally. All the while, K.B. remained outside the room, listening to what was going on. After J.C. escaped, the police were called. Two days later, K.B. was questioned, and confessed to what had happened.

Crown counsel Mr. Kerr realized from the outset that he had considerable legal hurdles in the prosecution of K.B. The only evidence against her on potential charges related to the attempted murder of her parents was her own confession to the police. Because the officers dealing with the case had not been fully trained in taking statements from young offenders, they had taken the incriminating statement from her as though she had been an adult. It did not take long for Mr. Kerr to realize that he could not use K.B.'s statement to convict her. The only other way the Crown could hope to convict K.B. would be to call J.C. as a witness against her. This could be very risky

for the Crown. If J.C. was called without the Crown's knowing what he might say on the stand (he would likely refuse to co-operate with the Crown unless he got some benefit from it), he could say anything, some of which might hurt the Crown's case against K.B. If he was to be a cooperative witness, the Crown would likely secure his co-operation only by agreeing to some reduced charge against him, which it was not prepared to do given the circumstances and the severity of the injuries caused. For these reasons, Crown counsel proposed to proceed only on a charge of public mischief (lying to the police).

Although I was not the scheduled pre-trial judge on the day the parties came to their proposed plea bargain, they asked to see me in chambers. This happens regularly at the Scarborough court. The lawyers "judge shop" as part of their plea bargain, seeking to find a judge who will agree in advance to commit himself or herself to a range of sentence.[6] They told me that the Crown would ask for a sentence of twelve to eighteen months, but that I should make some allowance for the amount of pretrial custody that the accused would have served by the time I ultimately sentenced her. The defence would ask for probation, arguing that the amount of pre-trial custody was equivalent to some ten months,[7] and that was sufficient given her age and Parliament's view of the seriousness of the offence, as expressed by the maximum possible penalty of two years. I agreed that counsel were in the range and that so long as mental health assessments (which I would order as soon as she pleaded guilty) were not devastating, I would not exceed the sentence sought by the Crown.

The accused entered her plea of guilty that same day, and the case was remanded so that mental health assessments and a pre-disposition report (a social history of the accused prepared by a youth probation officer) could be obtained. On September 1, the parties made their formal submissions based on the facts and what was disclosed in the various reports. Having heard what they said, I told the lawyers that I needed time to think about what they had said and put the case over until after my next chambers day on September 4.[8]

During the sentencing hearing, a joint victim impact statement was filed on behalf of both parents. I accepted it because both parties agreed that it should be filed. As I thought more about the case, I wondered if I should have done so. The report documented the devastating impact their daughter's behaviour has had on the parents' lives. They are both physically and mentally unable to work; it appears that because they cannot pay their mortgage, they will lose their home, their only form of substantial saving.

However, because of what the accused pleaded guilty to, I was not, strictly speaking, sentencing her for her part in causing harm to her parents. I concluded that what happened on that awful night only provided the backdrop for the lies that she told the police. As a result, I decided that I should factor in the victim impact statements only to the extent that they would give me some sort of clue to the accused's likelihood of re-offending (the psychiatric report concluded that it was low) and because they told me that her parents were not prepared to offer her any support at this time.

On September 10, I gave oral reasons,[9] sentencing the accused to ten months of open custody,[10] followed by twelve months' probation. The lengths of the various terms were tailored around the accused's schooling (school is a real strength for her). Like R.S., she could come back to ask me to review her status after six months of open custody.

This, then, is part of a day in the life of a busy court. It is usually intense, sometimes tragic, always human, and endlessly fascinating. It may even be socially useful.

1. At the time of writing, the Provincial Division of the Ontario Court of Justice comprises about 260 judges, about 180 of whom preside over 95 percent of the criminal cases in the province.

2. Initials are used because the Young Offenders Act provides that no young offender's name may be published.

3. Scarborough tends to be a magnet for refugee claimants, visitors, and new immigrants. Although there is no precise figure that fully and accurately captures this phenomenon, some indication of the diversity of the population in the court's catchment area is reflected in the fact that in fiscal year 1997, court interpretation services were offered in fifty-four languages. On some days, two or three interpreters for the same languages are necessary.

4. I have no idea where the bureaucrats come up with this notional figure. To allow for the movement of prisoners from remand centres to the court (some may be transported as much as 40 km through rush-hour traffic), experience demonstrates that it is almost impossible to start a trial court before 10:00 a.m. Because it is very difficult for court reporters to be able to concentrate for longer than about ninety minutes at a time, on the best of days, morning court goes from 10:00 a.m. to 1:00 p.m. with a fifteen-to twenty-minute break. Court normally resumes at 2:00 p.m., again with an afternoon break. Court usually recesses at 4:30 p.m. to allow court staff to finish their paperwork and prisoners to be returned to their remand centres.

5. K.B. later told the police that one of her other motivations for the offence was that her stepfather had sexually assaulted her on several occasions. She refused to provide the police with any further information and indicated that she did not wish to have her stepfather charged.

6. Appellate courts across the country have been very clear that, because plea bargains so obviously give the impression that what happens in open court merely rubber-stamps what has been worked out in advance (the very term "plea bargain" is frowned on by the appellate courts, and judges usually prefer to use such neutral phrases as "pretrial discussions"), the judge should decline to agree to any particular sentence and agree only , if at all, to a particular range or type of sentence. Luckily, in this case, the parties came to me with a range of sentence rather than a precise sentence proposal.

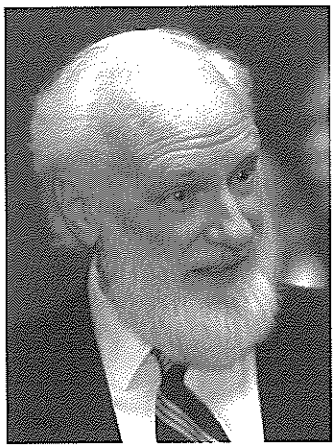
7. Although I do not, as a matter of law, have to make any allowance for pretrial custody in the sentence ultimately imposed, the Ontario Court of Appeal has said that an allowance should normally be made. Further, while the court has been split for many years as to how much credit should be given, there now seems to be a consensus that an allowance should be made on a "two-for-one basis." In other words, for each day spent in pretrial custody, two days should be taken off the normally appropriate sentence.

8. In fact, in addition to my chambers day, I spent a lot of time reading and thinking about this case throughout the Labour Day weekend. The judicial life may seem "cushy" to outsiders (our salaries are good, our pensions are excellent, we get six weeks of holidays and up to thirty-six chambers days per year, and we cannot be fired except in the most extreme circumstances). However, most judges I know spend much of their weekends and some of their holidays preparing for upcoming cases.

9. Like most judges, I would dearly like to be able to take the time to write thorough reasons, addressing in detail the facts, the arguments of the lawyers, and case law. Unfortunately, the constant time pressures are such that this can rarely be done. In 1998, I have been able to do this in only five cases (which is, in fact, quite a high number compared to many other judges).

10. Open custody (open only to young offenders, not adults) is a form of halfway house. If the accuseds live up to the rules of the facility (they are fairly tightly supervised), they may be permitted to go out for specified activities (such as going to school or work) or to attend rehabilitative programs. If they misbehave, they may be placed in secure custody.

Compromise or Silent Acquiescence?



"This above all: To thine ownself be true...
Thou canst not then be false to any man" – Shakespeare)

by Paul J. Williams

Some forty years ago I embarked on a journey that would lead me through arcane byways and into mysterious places. My particular odyssey would be characterized by meanderings through a minefield of suppressed violence and deceit, occasionally uplifted by the hope of opening avenues of change, only to be thwarted by the disingenuous intrigues of power games. Despite this, the relatively few stunning successes have adequately compensated for the many setbacks in this complex field of endeavour.

Over this period of time I have met and worked with many highly-endowed, well-intentioned people from both the public domain and the private sector. They have come from diverse linguistic, cultural and ethnic backgrounds and have applied their talents diligently. Nevertheless, the tremendous bureaucratic expansion within government agencies has spawned a monolithic structure in corrections which has gradually but steadily enveloped the voluntary sector and enforced an overall standardization of correctional thinking and practice. The functional input of community-based organizations has become less effective due to imposed controls which have resulted in a cloning of services and techniques. Although initiatives from the community are still entertained, they are frequently tailored down to a product beneficial to the organizational structure rather than to the clientele they had been designed to serve. Simultaneously, the voice of constructive criticism from without has been gradually silenced through bureaucratic standards reinforced by remunerated contractual conformity. The end result is that the non-governmental sector is customarily failing in its role to provide distinct parallel services and to proffer independent, valuable assessment of a system which is ultimately responsible to society as a whole.

Criminal Justice as a whole and, more specifically, the correctional system with its inherent mechanism of conditional release, becomes a subject of wide public interest when a major event occurs. There is usually a media feed frenzy when a gruesome murder, a prison riot, a hostage-taking or some similar spectacular incident takes place. Although it is the media's responsibility to report such happenings, when the reporting is heavily weighted with the dramatic, a skewed picture emerges. Unfortunately, the general public's knowledge of corrections, its players and its problems is almost entirely limited to the media account of such episodes. A perilous corollary of this is that policymakers, in deference to this contrived public opinion, are sometimes wont to counsel change founded on incomplete or flawed information.

Criminal Justice which incorporates the correctional system, must be a concern for all, at all times. The openness of our court system is to ensure that justice takes place and that there is an appearance of justice as well. This fundamental transparency is an important benchmark of a healthy system but must not be limited to the judiciary. Although a certain veneer of candidness has emerged in corrections and parole over the past twenty years or so, the portrait is a mere adumbration of the reality. Political consolidation and correctness, bolstered by the bloated bureaucracy of a government agency bent on creating and preserving an image, have all but muted the voice of informed criticism from without and implanted an internal structure of intellectual and functional inbreeding.

Corrections is a people business whose ultimate efficacy will be, in great part, reliant upon the interpersonal relationships among its various players. Most administrators acknowledge that correctional personnel should somehow share a common goal. Although the term "team approach" is presented in official communiqués, closer scrutiny leads one to question whether the "game" is the same one for all concerned. In any case the offender population, that other people element without which there would be no game whatsoever, must be perceived and accepted as an integral part of the maze of interpersonal relationships. This latter group of individuals, including those detained against their will, is the raison d'etre of any correctional system. They must be dealt with openly and honestly if one is to expect of corrections something more than temporary, preventive warehousing and control. The first victims of crime are the offenders themselves. This is not meant as an excuse for their behaviour but merely as a hint of an explanation. I believe that we, as a society, have a serious obligation to crime prevention and one of the many valid approaches to it lies in treatment of the offender. This is a complex notion which includes a knowledge of delinquent dynamics, an awareness of both societal resources and insufficiencies and an in-depth understanding of the effects of the deprivation of liberty.

Incarceration is society's primary manner of responding to behaviour that contravenes established law. There are other means as well but if the behaviour is considered serious or repetitive, imprisonment is usually the outcome. Some believe it is not used often enough, others that it is meted out too easily; some hold that it is not sufficiently harsh, others proclaim that the simple deprivation of freedom is punishment enough. The law and government correctional documents state that incarceration is to be used as a last resort. Official proclamations, however, do not always reflect the reality in practice. Canada has the dubious reputation as the country with the second highest incarceration rate in the western hemisphere. Suffice it to say that incarceration, as a means of neutralizing criminal behaviour, is indispensable. It must be used prudently, however.

Equally important is the manner in which the incarceration process is carried out. Deprivation of liberty is a serious matter and must be treated as such. The simple removal of someone from society does not necessarily solve the problem, either for the offender or for society as a whole. That portion of the sentence to be served in a correctional institution must be designed in such a manner as to augment the chances of the offender to reintegrate into the community upon release. The post-release phase of the sentence, to be served under supervision in the community, is an integral part of the correctional process and must be directly related to the institutional experience. Thus, reintegration of the offender neither begins nor ends upon release from prison but, rather, must be an essential ingredient inherent in the sentence itself.

In the correctional field several factors may come into play and cloud the ultimate goal of the service. The most incessant impediment stems from the nature of

the subject-matter itself, delinquency, personified by the offender. The offender, particularly the persistent offender, is seldom motivated towards internal change. This presents a unique challenge to the care-givers and renders their task an especially difficult one. Basic differences in the perception of needs and goals create a pronounced antithesis between care-giver and client, generating antipathies which must be recognized and addressed. If not, the care-giver's role is never actualized and a truly helping service becomes an impossibility. Motivation to change, when considered a sine qua non rather than a symptom of character disorder, becomes a facile reward/punishment contrivance easily manipulated by the better organized offender through superficial compliance to external demands. The end result of this artificial course of thinking and action is the growth of a paternalistic attitude towards the offender and his station in life. The process itself, evident in institutional living, parole hearings and current practice in conditional release supervision, is one which engenders a fawning acquiescence, thereby undermining the development of autonomy and personal responsibility.

With today's advanced technology, prisons and penitentiaries have streamlined their service delivery. There are more correctional programs than in the past, easier access to educational and vocational assistance and added functions to address ethnic and cultural diversity. Despite these developments, however, the overall tenor of the institutional climate has become increasingly impersonal. Wardens have retreated to a bureaucratic hideaway, making fewer hands-on decisions while delegating to a myriad of faceless committees. Institutional parole officers, better educated than in days past, perform at a comfortable distance as "crimino-technicians", diligently perusing files and busily collating computer-provided information of arguable accuracy.

The concept of affording protection to the community-at-large has always been a proposition at the basis of criminal justice. The notion of providing a safeguard against anti-social behaviour which contravenes established law is inherent in the various activities of policing, sentencing, incarceration and conditional release. The level at which the initiative towards public protection is promulgated, however, is related to the particular field of activity; always present, but in lesser or greater evidence depending on related, equally important factors. The idea of concrete assistance in the rehabilitation of the offender, on the other hand, has not always been an active ingredient in criminal justice. Punishment and retribution were the just rewards for criminal behaviour well into the twentieth century. Even today, one may question the premise that the penitentiary is or should be a centre in which the individual offender's problems and difficulties, with respect to understanding and possible change, are to be addressed. It is certainly the opinion of some that the penitentiary should be what the name implies: a retributive detention where, at best, change may come about simply as a result of punishment. The fact is, however, the official position is that the penitentiary is defined as a correctional institution, within a correctional system. The assertion here is that behavioural change is anticipated, pursued and, finally, demanded. The defined terminology of correctional plan, needs/risk evaluation, resocialization and conditional release are samples of the authorized cant designed to reflect a system which encompasses the notion of change and suggests a means of carrying it out. The accompanying price tag, conservatively pegged at the one and a half billion dollar mark per annum, while supporting this allegation, brings a more pertinent question to the fore: is society duly compensated for this exorbitant expenditure in both fiscal and human terms?

Nevertheless, this gospel of corrections encompasses the two-pronged purpose of protecting society while contributing to offender rehabilitation. The implication, written or oral, is clear that the former takes precedence over the latter; the worth of rehabilitation subsists in its contribution to the protection of society, rather than its being of intrinsic value. Although this premise is ostensibly admissible, the patent duality leaves the door open to a false assurance of additional societal protection as one purpose gradually supplants the other. After all, what better way to protect society than by restricting offender mobility? This ersatz security, however, does not pause to gauge the natural consequence of constraint; it simply curtails freedom of movement in the immediate

and prolongs the negative effects over the long-term. In reality, the two purposes are mutually inclusive when defined authentically. A veritable protection of society comprises rehabilitation of the offender; correspondingly, rehabilitation of the offender axiomatically provides protection for society. It is only when the two are disunited, each one distinct from the other, that they assume a ranking order in the mind of the perceiver, then proceed sequentially into policy and practice.

Catch-phrases and buzz-words are not the exclusive property of advertising agencies. Their brevity and poignancy attract immediate attention and, as such, are in vogue in the political arena. Their legitimacy lies in the extent to which they reflect reality; their weakness rests in the fact that their meaning is easily warped and may misrepresent an issue or modify a course of action. Over the past twenty years or so, the expression "protection of society" has become a catch-phrase, bandied about as though we were a society under siege. It serves the right wing political agenda well, playing on the fears of a public whose knowledge of corrections is too often limited to media reports of a few spectacular failures. The left wing political agenda has reacted with a decided swing towards the centre and right of centre, likewise espousing the slogan of public protection. When employed in this offhand manner, the notion of safeguards for the public becomes increasingly divorced from the concept of rehabilitation. This splitting of the one issue in two, fractures a unitary correctional process. The undue emphasis on public protection, to the diminution or exclusion of offender rehabilitation, places a disproportionate weight on the neutralizing aspect of incarceration while nullifying its importance as a preparatory phase for community reintegration. At the same time, the post-release phase of the sentence assumes a distorted posture, portraying itself as the beginning and sole venue for reintegration of the offender into the community-at-large. The end result is that the process of incarceration escapes the close scrutiny necessary to assure that the effects of the deprivation of liberty are acknowledged and given due consideration in the controlled evolution of a meaningful correctional system.

In the final analysis, success or failure of a correctional and conditional release process, vital components of a criminal justice system, is heavily reliant upon individual concern and performance. The organization, whether public or private, is simply a vehicle to facilitate and coordinate individual endeavour. Should the organization become an entity unto itself, mixed messages emerge, allegiances are divided and objectives are distorted. In fact, organizations work to get it done, to get it over with, to get on to the next; individuals alone have the capacity to fathom the intrinsic value of work and transform it into workmanship. If we as a society are to be more than onlookers responding to media accounts of titillating events, we must insist upon an accurate depiction of the role of the active participants in both the private and public domain, as well as on both sides of the law. The portrayal of true positive resources must be acknowledged and supported, regardless from where they originate.

Criminal Justice is essentially a people business, one in which everyone shares to a greater or lesser degree. The transparency of the system is quintessential and its being so is best assured through the interest and involvement of a well-informed public. The best guarantor of unbiased public education and consequent governmental transparency lies within a vibrant voluntary sector, suitably financed so as to maintain an autonomous position of constructive criticism shored up by the provision of genuine ancillary services. Partnership, a notion so glibly bandied about at present, could assume an authentic role and contribute directly to the maturation of a system worthy of a free, democratic society.

Compromission ou soumission tacite?

(« Avant tout, sois loyal envers toi même; (...)
tu ne pourras être déloyal envers personne » – Shakespeare*)*

Par Paul J. Williams

Il y a quarante ans s'entamait pour moi un parcours qui allait me conduire en des lieux mystérieux par des voies obscures. Ce voyage allait m'entraîner par de multiples détours dans des champs minés de violence et de tromperie, me laissant occasionnellement entrevoir une lueur d'espoir de changement qui ferait tôt place à la frustration découlant de l'hypocrisie des luttes pour le pouvoir. Malgré tout, les quelques succès remarquables que j'ai connus, tout compte fait relativement rares, se sont avérés un contrepoids satisfaisant à mes nombreux revers dans ce champ d'action complexe.

Au cours de cette période, il m'a été donné de connaître et de travailler avec des gens très doués et bien intentionnés, tant du secteur public que du secteur privé. Ils sont issus de divers milieux linguistiques, culturels et ethniques, et tous font preuve de zèle en cherchant à mettre leurs talents à contribution. Néanmoins, la croissance gigantesque de la bureaucratie au sein des organismes gouvernementaux a donné naissance à une structure de services correctionnels monolithique qui, de manière graduelle mais certaine, a enveloppé le secteur privé et lui a imposé une standardisation globale de la pensée et des pratiques correctionnelles. Les organismes communautaires ont perdu de leur efficacité en raison des contrôles auxquels ils sont soumis, des contrôles qui se sont soldés par un clonage des services et des techniques. Même si on accueille toujours certaines initiatives émanant de la collectivité, il arrive fréquemment qu'on les réduise à un produit qui profitera davantage à la structure organisationnelle qu'aux clients pour lesquels ils ont été conçus. Parallèlement, on a graduellement étouffé les critiques constructives venant de l'extérieur par l'imposition de normes bureaucratiques renforcées par des ententes contractuelles de financement auxquelles doivent se conformer les organismes. En bout de ligne, le secteur non gouvernemental ne parvient habituellement plus à assumer son rôle et à offrir en parallèle des services de nature différente, non plus qu'à évaluer de manière indépendante et précieuse un système qui, en définitive, doit rendre compte à la société dans son ensemble.

Le système de justice pénale tout entier et, de manière plus spécifique le système des services correctionnels et ses divers modes de mise en liberté sous condition, revêt soudainement un intérêt considérable pour la population lorsqu'un événement majeur se produit. Un meurtre horrible est commis, une émeute éclate en prison, une prise d'otage ou autre incident du genre survient et voilà que les médias de déchaînent. Bien sûr, il leur incombe de rapporter la nouvelle, mais, lorsque les reportages prennent une forte saveur dramatique, il en résulte une image biaisée de la réalité. Malheureusement, la connaissance qu'a la population des services correctionnels, de ses acteurs et de ses problèmes lui vient presque exclusivement des comptes rendus des médias sur des événements de ce genre. Un corollaire dangereux de ce fait est que les décideurs, par égards pour cette opinion publique quelque peu artificielle, vont parfois proposer des changements en fonction d'informations incomplètes ou erronées.

La justice pénale, dont fait partie le système correctionnel, doit constituer un souci pour tous, et en tout temps. Notre système judiciaire se veut transparent afin d'assurer que la justice soit rendue et qu'il y ait apparence de justice. Cette transparence essentielle est une caractéristique importante d'un système bien portant, mais elle ne doit pas se limiter à l'appareil judiciaire. Bien que les services correctionnels et les libérations conditionnelles aient fait preuve d'une bonne foi accrue au cours des derniers vingt ans, le portrait qui en résulte ne correspond qu'à une vague image de la réalité. Les resserrements et la rectitude politiques, soutenus par la bureaucratie gonflée d'un organisme gouvernemental enclin à se donner une image et à la préserver, ont à toutes fins pratiques contribué à faire taire les critiques informés venant de l'extérieur et à instaurer une structure interne d'autofécondation intellectuelle et fonctionnelle.

Les services correctionnels sont une entreprise humaine dont l'efficacité dépendra en bout de ligne et en grande partie des rapports humains entre les divers acteurs qu'on y retrouve. La plupart des administrateurs reconnaissent que le personnel des services correctionnels devrait avoir un but commun. Bien que tous les documents officiels fassent état d'une approche d'équipe, un examen plus poussé nous amène à nous demander si tous sont engagés dans la même partie. Quoi qu'il en soit, la population des délinquants, cette autre composante sans laquelle il n'y aurait pas de partie du tout, doit aussi être reconnue et acceptée comme partie intégrante du labyrinthe des rapports interpersonnels. Les délinquants, notamment les détenus, constituent la raison d'être de tout système correctionnel. On se doit de traiter avec eux ouvertement et honnêtement si l'on veut que l'entreprise correctionnelle corresponde à autre chose qu'un simple entreposage temporaire et préventif. Les premières victimes de la criminalité sont les délinquants eux-mêmes. Il ne s'agit pas là d'une justification de leur comportement, mais d'une simple ébauche d'explication. Je crois qu'il nous incombe comme société de contribuer à la prévention du crime et que l'une des nombreuses approches valables à cette fin réside dans le traitement des délinquants. C'est là une notion complexe qui englobe une compréhension de la dynamique délinquante, une connaissance des ressources existantes et manquantes dans la société et une compréhension profonde des incidences de la privation de liberté.

L'incarcération constitue la principale réaction de la société aux comportements qui contreviennent aux lois établies. Il existe d'autres moyens aussi, mais, si le comportement est jugé grave ou répétitif, on recourt habituellement à l'incarcération. Pour certains, on ne recourt pas assez souvent à l'incarcération; pour d'autres, on le fait trop facilement. Certains sont d'avis qu'il ne s'agit pas d'une peine assez lourde dans son application; d'autres pensent au contraire que le simple fait de priver quelqu'un de sa liberté est une peine suffisante. La loi et les documents correctionnels de l'État stipulent que l'incarcération doit être une peine de dernier recours. Il arrive

toutefois que les proclamations officielles ne reflètent pas la réalité de la pratique. Le Canada occupe le deuxième rang des pays occidentaux affichant les plus hauts taux d'incarcération – une réputation peu enviable. On se bornera à dire que l'incarcération est indispensable comme moyen de contrer les comportements criminels. On doit toutefois y recourir avec prudence.

Les modalités d'exécution d'une peine d'incarcération revêtent aussi une grande importance. Priver quelqu'un de sa liberté est un geste lourd de conséquence et il faut faire preuve de circonspection à cet égard. Le simple fait de retirer une personne de la société ne résout pas nécessairement le problème, ni pour le délinquant, ni pour la société. Il faut que la partie de la peine à être purgée dans un établissement carcéral soit conçue de manière à augmenter les chances qu'un détenu puisse réintégrer la société au moment de sa remise en liberté. Il doit exister un lien direct entre la phase postlibératoire d'une peine devant être purgée dans la collectivité et l'expérience vécue en établissement. Ainsi, le processus de réinsertion sociale ne commence pas et ne prend pas fin avec la mise en liberté; il s'agit plutôt d'un élément inhérent et essentiel de l'ensemble de la peine imposée.

Dans le domaine correctionnel, un certain nombre de facteurs peuvent se conjuguer et entraîner que l'on perde de vue le but ultime du service à rendre. Les difficultés les plus persistantes sont attribuables à la nature même de la problématique, soit la délinquance, incarnée par les délinquants. Ceux-ci, surtout les multirécidivistes, sont rarement motivés à changer profondément. Il s'agit là d'un défi unique que doivent relever les prestataires de services et qui rend leur tâche particulièrement difficile. Il existe des différences marquées entre les perceptions qu'ont les intervenants et les clients des besoins à combler et des buts à atteindre; il en découle certains sentiments d'antipathie que l'on se doit de reconnaître et avec lesquels on se doit de composer. À défaut, le rôle de l'intervenant ne se concrétisera jamais et il deviendra impossible d'établir une réelle relation d'aide. Si on perçoit la motivation à changer comme une condition sine qua non plutôt que comme un symptôme de troubles du caractère, celle-ci peut donner lieu à de la manipulation en fonction d'un système de récompenses et de punitions que peuvent exploiter les délinquants les mieux organisés, en se conformant superficiellement aux demandes externes. En bout de ligne, cette façon artificielle de penser et d'agir donnera lieu à une attitude de plus en plus paternaliste envers le détenu et sa situation de vie. Ce processus – manifeste dans la vie en établissement, dans le cadre d'audiences de libération conditionnelle et les pratiques actuelles de surveillance des libérés conditionnels – prend la forme d'un acquiescement servile qui, de ce fait, contribue à miner l'acquisition d'une certaine autonomie et du sens des responsabilités par le délinquant.

Profitant de la technologie avancée dont on dispose aujourd'hui, les prisons et les pénitenciers ont rationnalisé leur prestation de services. On propose davantage de programmes correctionnels que par le passé, un accès plus facile à l'éducation et à la formation professionnelle, et de nouvelles façons de traiter de la diversité ethnique et culturelle. Malgré tout cela, le milieu institutionnel devient de plus en plus impersonnel. Les directeurs d'établissements se sont terrés dans la bureaucratie, prenant moins de décisions interventionnistes, tout en déléguant leur pouvoir à une myriade de comités anonymes. Les agents de libération conditionnelle en établissement, plus instruits que par le passé, se comportent comme des criminotechniciens en demeurant confortablement en retrait, en se plongeant diligemment dans des dossiers et en s'affairant à rassembler des données générées par des ordinateurs et dont l'exactitude demeure contestable.

Protéger la collectivité a toujours été un objectif fondamental du système de justice pénale. L'idée d'offrir une protection contre les comportements antisociaux qui contreviennent aux lois en vigueur est au cœur même des diverses activités d'application de la loi, de détermination de la peine, d'incarcération et de mise en liberté sous condition. Toutefois,

l'importance que l'on accorde à la notion de protection du public varie selon les champs d'activité; l'idée de protection du public est toujours présente, mais elle prend plus ou moins de place en regard d'autres facteurs connexes et également importants. Par ailleurs, l'idée de contribuer concrètement à la réhabilitation des délinquants n'a pas toujours été une considération centrale du système de justice pénale. La punition et le châtiment étaient perçus comme des conséquences justes du comportement criminel pendant une bonne partie du 20e siècle. Même aujourd'hui, on pourrait remettre en question la prémisse selon laquelle le pénitencier est ou devrait être un lieu où traiter des problèmes d'un détenu en vue de lui permettre de les comprendre et de changer. Certains sont certes d'avis que le pénitencier devrait être précisément ce que son nom suggère, soit un lieu de détention punitive où, au mieux, le changement pourrait se produire comme simple conséquence du châtiment. Toutefois, la définition officielle d'un pénitencier est celle d'un établissement correctionnel au sein d'un système correctionnel. Cela sous-entend que l'on s'attend à un changement de comportement, qu'on vise un tel changement et, en bout de ligne, qu'on l'exige. La terminologie utilisée – plan correctionnel, évaluations des besoins et du risque, resocialisation et mise en liberté sous condition – fournit des exemples de jargon conçu en vue de projeter l'image d'un système axé sur le changement du délinquant et de proposer des moyens d'y parvenir. Mais il y a un prix à payer pour cela; au bas mot, 1,5 milliard de dollars par année. Bien qu'il s'agisse là d'un appui manifeste aux objectifs énoncés, cela soulève une question encore plus pertinente : la société reçoit-elle un juste retour sur cet investissement exorbitant, tant en termes financiers qu'en termes humains?

Quoi qu'il en soit, ce credo des services correctionnels comporte deux volets : protéger la société, tout en contribuant à réhabilitation des délinquants. Cela sous-entend manifestement, tant dans les écrits que verbalement, que le premier volet a préséance sur le deuxième. On accorde de la valeur à la réhabilitation du fait qu'elle contribue à protéger la société, plutôt que de lui reconnaître une valeur intrinsèque. Bien que cette prémisse soit en apparences convenable, sa dualité manifeste pourrait mener à une fausse assurance, celle d'une sécurité accrue de la population si l'un des volets en vient à supplanter l'autre. Après tout, peut-on imaginer un meilleur moyen de protéger la société que de neutraliser le délinquant? Mais cette soi-disant sécurité ne s'arrête pas aux conséquences logiques de cette neutralisation; elle ne fait que restreindre les déplacements du détenu de manière temporaire et en prolonger les effets néfastes à plus long terme. Dans les faits, si on les comprend dans leur vrai sens, les deux volets sont mutuellement inclusifs. Pour véritablement protéger la société, il faut parvenir à réhabiliter le délinquant et, corrélativement, la réhabilitation du délinquant contribue manifestement à protéger la société. Ce n'est que lorsqu'on les considère chacun des processus isolement, c'est-à-dire comme distincts l'un de l'autre, que s'établit une préséance de l'un par rapport à l'autre dans l'esprit de l'observateur, et il s'en suit logiquement que cette préséance se reflète dans les politiques et la pratique.

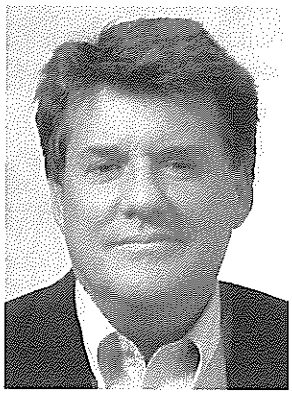
Les slogans et les clichés à la mode ne sont pas l'apanage des agences de publicité. Ils sont concis et accrocheurs et attirent immédiatement l'attention; de ce fait, ils font fureur dans l'arène politique. Ils sont plus ou mois légitimes selon qu'ils traduisent plus ou moins la réalité; ils ont par ailleurs un point faible du fait qu'on peut facilement en tronquer le sens et ainsi faussement présenter un enjeu ou modifier un plan d'action. La notion de protection de la société est devenue une rengaine depuis une vingtaine d'année; on l'évoque à tous vents comme si la société était assiégée. Elle sert très bien les intérêts de la droite, en exploitant les peurs de la population dont la connaissance des services correctionnels se limite trop souvent à la description que font les médias de quelques rares échecs spectaculaires. La gauche a réagi en réalignant ses positions sur le centre et la droite du centre et faisant sien aussi le slogan de la protection de la société. Lorsqu'on en traite de ces questions de façon aussi désinvolte, on contribue à dissocier les concepts de protection du public et de

réhabilitation. Cette scission porte atteinte à un processus correctionnel que l'on voudrait unitaire. En mettant un accent indu sur la protection du public, au détriment ou à l'exclusion de la réhabilitation des délinquants, on donne un poids exagéré à l'aspect neutralisant de l'incarcération, tout en invalidant son importance comme phase préparatoire à la réinsertion sociale. De ce fait, on fausse l'objectif de la phase postlibératoire de la peine qui dès lors est perçue comme le début et la seule voie de réinsertion sociale du délinquant. Il en résulte que l'on évite de soumettre le processus d'incarcération à l'examen minutieux qui s'imposerait afin d'assurer que soient reconnus et pris en considération les effets de la privation de liberté dans l'évolution contrôlée d'un système correctionnel significatif.

En bout de ligne, le succès ou l'échec des processus correctionnels et de mise en liberté sous condition – composantes essentielles d'un système de justice pénale – dépend fortement du souci de bien faire et du rendement de l'intervenant. Une organisation, qu'elle relève du domaine public ou privé, n'est rien de plus qu'un véhicule servant à faciliter et à coordonner les efforts de l'intervenant. S'il arrivait qu'une organisation existe trop en fonction d'elle-même, il en résulterait des messages ambigus, des allégeances divisées et des objectifs dénaturés. Dans les faits, ce qui intéresse les organisations, c'est d'abord d'effectuer un boulot, d'en finir avec une tâche et de passer à la prochaine. Mais seul l'intervenant a la faculté de comprendre la valeur intrinsèque du travail et d'en parfaire l'exécution. Si nous espérons en tant que société jouer un rôle autre que celui de simple observateur et réagir aux comptes rendus médiatiques d'événements émoustillants, il nous faut insister sur une représentation fidèle du rôle des acteurs, tant ceux du secteur privé que du secteur publique, et des deux côtés de la loi. Il faut reconnaître et appuyer la représentation de ressources authentiques et positives, quelle qu'en soit l'origine.

La justice pénale est essentiellement un processus humain auquel tous adhèrent à divers niveaux. La transparence doit être une dimension essentielle du système et le meilleur moyen d'assurer qu'il en soit ainsi est de susciter l'intérêt et l'implication d'une population bien informée. Et la meilleure façon d'assurer une éducation objective du public et la transparence des instances gouvernementales qui en découlera, c'est en assurant l'existence d'un secteur bénévole dynamique et financé convenablement, de manière à ce qu'il puisse s'exprimer librement et formuler des critiques constructives soutenues par la prestation des services complémentaires fondés sur l'authenticité. Le partenariat, une notion si galvaudée à l'heure actuelle, pourrait prendre une importance réelle et contribuer directement à la maturation d'un système digne d'une société libre et démocratique.

Crime Prevention Through Social Development: Expanding the Public Safety Tool Box



("When the only tool you have is a hammer, every problem begins to resemble a nail." – Abraham Maslow*)*

By Jim Ellsworth

Manager, Atlantic Region, National Crime Prevention Centre, PSEPC

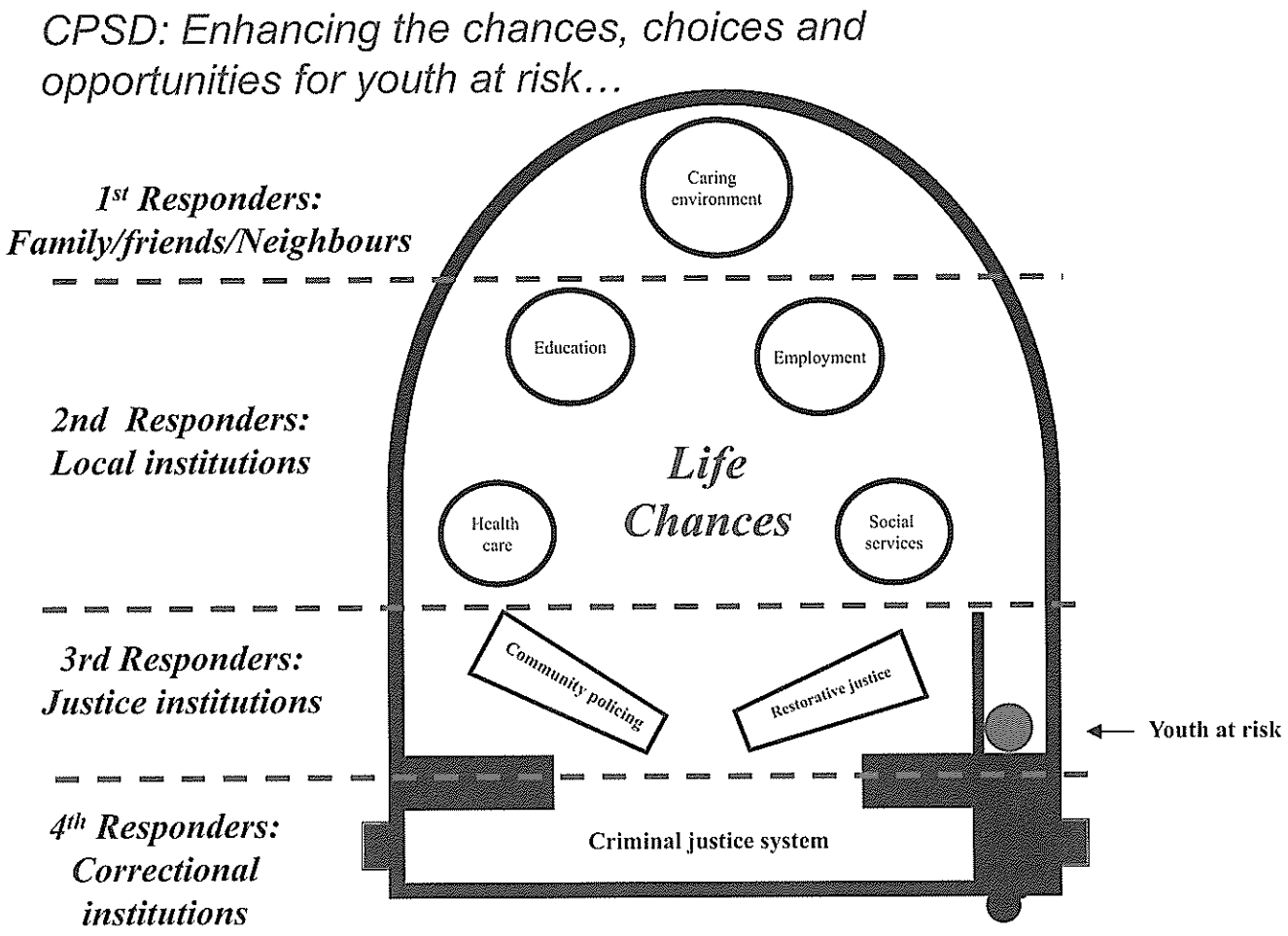
While the hammer (enforcement) remains an essential part of the public safety tool box, it is now complemented by crime prevention through social development (CPSD). When used in tandem, enforcement and CPSD are an effective combination for both addressing and preventing crime. Equally important, they enable the public safety sector to position itself as a key player in the renewal of vulnerable neighbourhoods. Public safety, therefore, becomes a cornerstone of community renewal efforts aimed at building strong neighbourhoods where gangs and criminal activity cannot thrive.

In many instances, these responders also use CPSD to assist the families of offenders.

Within these ambitious neighbourhood initiatives, police partner with social entrepreneurs. Together, they help the community provide youth at risk with better chances, better choices and opportunities to contribute to community improvements as well as benefiting from them.

The pinball paradigm

Many youth who fall into the criminal justice system bounce around like pinballs during their early years. This pinball paradigm illustrates how CPSD helps a diversity of responders address the needs of youth at risk and set them



on a path toward positive, healthy lives.

The *first responders* to the needs of youth at risk are family, friends and neighbours. These responders use CPSD to become better caregivers and role models for youth at risk. Research shows that neighbours' willingness to act for one another's benefit -- particularly for the benefit of one another's children -- can have a significant impact on neighbourhood crime and safety (Earls as reported by Hurley, 2004).

The *second responders* are local institutions such as schools, clubs and faith-based organizations. They use CPSD to help families meet the needs of youth at risk by offering programs and services tailored to the risk factors most prevalent in the lives of local youth. For example, training in problem solving and conflict resolution skills is becoming increasingly common in schools. Similarly, community-based organizations now often provide mentoring, counselling, recreation, and other CPSD activities aimed at youth at risk.

The *third responders* are institutions or extensions of the justice system that use CPSD approaches such as community policing and restorative justice to repair community damage and help people with problematic behaviours without bringing them into the criminal justice system. Drug courts and family violence courts are prime examples of the CPSD approach applied by criminal justice institutions.

Last but not least, *the fourth responders* are correctional institutions and their community partners. These responders use CPSD to rehabilitate offenders and help ensure their successful reintegration into society. In many instances, these responders also use CPSD to assist the families of offenders.

CPSD in practice

Communities using CPSD as part of their neighbourhood renewal initiatives include the port city of Saint John, New Brunswick. Here,

as in a growing number of cities, CPSD complements enforcement efforts at the neighbourhood level to enhance and integrate program and service delivery. This strategic union also serves as a catalyst for change by building leadership capacity, supporting local action and fostering shared ownership of issues. In the neighbourhood known as the "Old North End," it has reduced crime and cut the number of service calls to police.

These results were achieved within a strong neighbourhood framework focused on issues such as poverty, crime and drugs. Police contributed by providing data on crime and related issues, and through highly visible enforcement efforts. Meanwhile, citizens and community organizations contributed by expanding and aligning their programs and services, by providing youth with access to sports and recreation, and by engaging youth in making their neighbourhood a safer and healthier place.

Youth responded by replacing graffiti with positive urban art and improving areas that were considered unsafe or not reflective of a caring community. As a testimony to the good work of all involved, the approach used by the Old North End initiative known as ONE Change is now being replicated in other neighbourhoods across the city. Vibrant Communities, the National Crime Prevention Centre and the Saint John Police Force are among those supporting this expansion.

While more research and evaluation are needed, evidence suggests that enforcement and CPSD complement each other within neighbourhood renewal initiatives. As Saint John Police Chief Al Bodechon tells it, "Community policing is not about barbeques and public relations. It is about partnering with the community and providing leadership that builds community capacity to address the social conditions that influence criminal activity."

The future of the CPSD-enforcement alliance

CPSD practitioners include men and women from a diversity of backgrounds and experiences. While some bring knowledge and skills derived from formal education, others bring valuable life experiences. Among these diverse characteristics, there is a common denominator that defines CPSD leaders – they are social entrepreneurs with a predisposition to innovation and collaboration.

Policing, crime prevention and public safety all benefit from this social entrepreneurship. By the time police are called upon, it is often in response to problems created by failed or inadequate policies in other sectors (Miller and Schacter, 2000). Conversely, when partners succeed in preventing crime, the benefits often include reduced social and health care costs, increased employment and improved quality of life (ICPC, 2002). The fusion of CPSD and enforcement is enabling police to play an increasingly proactive role in building strong neighbourhoods.

... when partners succeed in preventing crime, the benefits often include reduced social and health care costs, increased employment....

Today, we find CPSD embedded with enforcement in crime reduction, community safety and strong neighbourhood initiatives across Canada and the United States. The alliance sustains crime prevention efforts and addresses issues that would otherwise continue to elude us and detract from our quality of life. While this approach is still in its infancy, its results are impressive and promising. It can only improve as lessons are learned, gathered, and used to shape policy and practice.

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La prévention du crime par le développement social : un outil de plus pour assurer la sécurité publique

(« Tout ressemble à un clou pour qui ne possède qu'un marteau. » – Abraham Maslow)

Par Jim Ellsworth

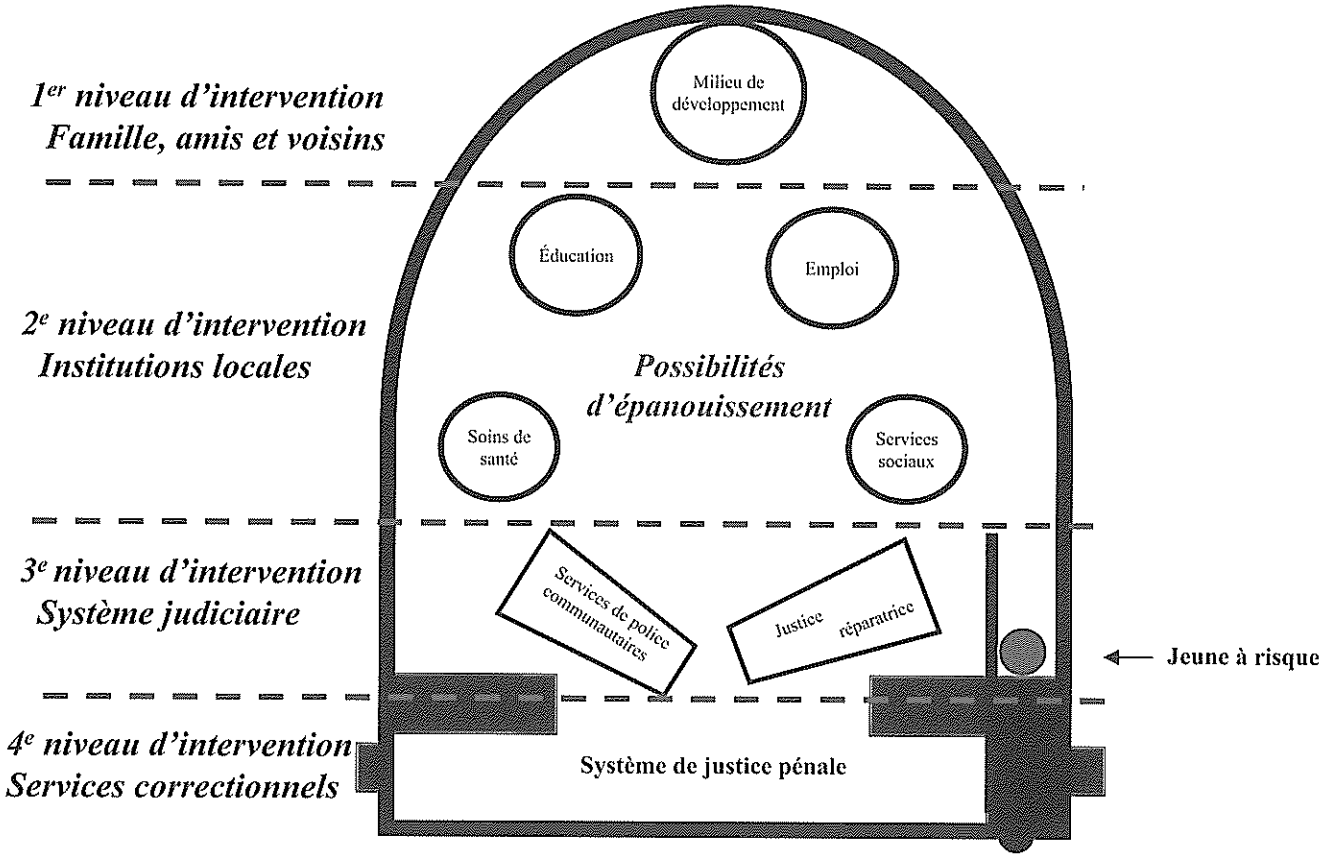
Gestionnaire, région de l'Atlantique,
Centre national de prévention du crime, SPPCC

Bien que le marteau (l'application de la loi) demeure essentiel dans la boîte à outils visant à renforcer la sécurité publique, celle-ci possède un outil allié : la prévention du crime par le développement social (PCDS). Lorsqu'elles sont mises en pratique parallèlement, l'application de la loi et la PCDS représentent un moyen efficace pour prévenir la criminalité et pour s'y attaquer. D'importance équivalente, ces deux types d'activités permettent au milieu de la sécurité publique de devenir un acteur clé dans le processus de revitalisation des quartiers vulnérables. La sécurité publique devient alors la pierre angulaire des efforts en matière de revitalisation des collectivités, qui visent à établir des quartiers sains où les gangs et les activités criminelles ne peuvent se développer.

Dans de nombreux cas, les intervenants du quatrième niveau utilisent également la PCDS pour soutenir les familles des délinquants.

Dans le cadre de ces ambitieuses initiatives de quartier, les services de police établissent des partenariats avec des entrepreneurs sociaux. Ensemble, ils aident les collectivités à offrir aux jeunes à risque de meilleures possibilités, des choix plus convenables ainsi que des occasions de contribuer à l'amélioration de la collectivité et d'en tirer profit.

La PCDS: améliorer les chances, les choix et les possibilités qui se présentent aux jeunes à risque…



Le concept du flipper

Bon nombre de jeunes qui aboutissent dans le système de justice pénale rebondissent d'abord d'un niveau à l'autre, comme une boule dans un jeu de flipper, dès les premières années de leur vie. Le concept du flipper illustre la façon dont la PCDS permet d'aider une vaste gamme d'intervenants à répondre aux besoins des jeunes à risque et à les mettre sur la voie d'une vie saine et positive.

Les *intervenants de premier niveau* qui ont pour rôle de combler les besoins d'un jeune à risque sont les membres de leur famille, leurs amis et leurs voisins. Par la PCDS, ces intervenants jouent un meilleur rôle à titre d'éducateurs et de modèles pour les jeunes à risque. Des recherches montrent que la volonté des voisins à agir pour le bien des autres, en particulier pour le bien de tous les enfants du quartier, peut avoir une incidence considérable sur le taux de criminalité et la sûreté du quartier (Earls selon Hurley, 2004).

Les institutions locales telles que les écoles, les clubs et les organismes à vocation religieuse constituent les *intervenants de deuxième* niveau. Elles font de la PCDS dans le but d'aider les familles à répondre aux besoins des jeunes à risque en offrant des programmes et des services adaptés en fonction des facteurs de risque les plus présents dans la vie des jeunes du quartier. Par exemple, dans les écoles, on enseigne de plus en plus aux jeunes les techniques de résolution de problèmes et de conflits. Dans un même ordre d'idées, les organismes communautaires mettent souvent à la disposition des jeunes des services de mentorat, de counselling et de loisirs et offrent également d'autres activités de PCDS conçues spécifiquement pour les jeunes à risque.

Les *intervenants du troisième niveau* comprennent les institutions du système judiciaire et les organismes connexes qui utilisent des approches de PCDS comme la police communautaire et la justice réparatrice afin de remédier aux dommages subis

par la collectivité et de venir en aide aux personnes présentant des comportements problématiques en évitant qu'elles n'entrent dans le système de justice pénale. Les tribunaux spécialisés en matière de drogue et de violence familiale sont de parfaits exemples d'initiatives de PCDS mises en œuvre par les instances de la justice pénale.

Les derniers mais non les moindres, les *intervenants du quatrième niveau,* sont les services correctionnels et leurs partenaires communautaires. Ces intervenants mettent la PCDS à contribution pour faciliter la réadaptation des délinquants et assurer une réintégration réussie dans la collectivité. Dans de nombreux cas, les intervenants du quatrième niveau utilisent également la PCDS pour soutenir les familles des délinquants.

La PCDS en pratique

Plusieurs collectivités ont recours à la PCDS dans le cadre d'initiatives de revitalisation des quartiers, dont la ville portuaire de Saint John, au Nouveau-Brunswick. À Saint John, comme dans un nombre croissant de villes, la PCDS s'ajoute aux efforts d'application de la loi à l'échelle locale afin d'améliorer et d'intégrer la prestation de programmes et de services. Ce rapprochement stratégique constitue aussi un catalyseur de changements, notamment pour ce qui est du développement du leadership, du soutien des interventions locales et du partage des responsabilités. Dans le quartier appelé « Old North End », il a réussi à diminuer le taux de criminalité et le nombre d'appels aux services de police.

... lorsque les partenaires font une prévention de la criminalité efficace, il en résulte souvent une diminution des coûts sociaux et des coûts liés aux soins de santé, une baisse du taux de chômage ...

Ces résultats ont pu être atteints en raison de la nature solide du cadre d'intervention du quartier, axé sur la résolution de problèmes comme la pauvreté, la criminalité et la toxicomanie. La police a pris part à cette réalisation en fournissant des données sur la criminalité et les problématiques connexes ainsi qu'en déployant des efforts très visibles de répression criminelle. Parallèlement, les citoyens et les organismes communautaires ont apporté leur contribution par l'intensification et l'uniformisation de leurs programmes et services ainsi que par la mise en place de services sportifs et récréatifs pour les jeunes. Ils ont amené les jeunes à s'engager à faire de leur quartier un endroit plus sécuritaire et plus sain.

En outre, des œuvres d'art urbain transmettant des messages positifs sont donc venues remplacer les graffitis pour ainsi améliorer des zones qui étaient perçues comme dangereuses et qui ne reflétaient pas le caractère bienveillant de la collectivité. En témoignage du bon travail réalisé, l'approche utilisée dans le cadre de l'initiative Old North End, connue sous le nom de ONE Change, est maintenant mise en œuvre dans d'autres quartiers de la ville. Cette expansion du projet est entre autres soutenue par Collectivités dynamiques (Vibrant Communities), le Centre national de prévention du crime et le service de police de Saint John.

Bien qu'il soit nécessaire d'effectuer davantage de recherche et d'évaluations, les faits tendent à démontrer que l'application de la loi et la PCDS sont complémentaires dans le cadre des initiatives de renouvellement des quartiers. Selon le chef de police de Saint John, Al Bodechon : « Maintenir l'ordre au sein d'une collectivité n'a rien à voir avec la participation à des barbecues ou les relations publiques. Il s'agit d'établir des partenariats avec les membres de la collectivité et de faire preuve de leadership pour contribuer à s'attaquer aux conditions sociales qui favorisent les activités criminelles » [traduction].

La combinaison de la PCDS avec l'application de la loi : perspectives d'avenir

La PCDS est pratiquée par des hommes et des femmes qui viennent de milieux différents et qui ont une expertise variée. Certains d'entre eux apportent des connaissances et des compétences qu'ils ont acquises au cours d'études alors que

d'autres partagent leur précieuse expérience de vie. Parmi ces différences, on peut toutefois remarquer un dénominateur commun propre aux chefs de file du domaine de la PCDS; ils sont des entrepreneurs du milieu social qui tendent à l'innovation et à la collaboration.

Les domaines du maintien de l'ordre, de la prévention de la criminalité et de la sécurité publique tirent tous profit de ce développement social. Lorsque l'on fait appel aux services de police, l'origine du problème est souvent reliée à des politiques inefficaces ou inadéquates dans d'autres domaines (Miller et Schacter, 2000). Inversement, lorsque des partenaires font une prévention de la criminalité efficace, il en résulte souvent une diminution des coûts sociaux et des coûts liés aux soins de santé, une baisse du taux de chômage et une meilleure qualité de vie (CIPC, 2002). L'utilisation conjuguée de la PCDS et de l'application de la loi permet à la police de jouer un rôle de plus en plus proactif dans le développement de quartiers sains.

De nos jours, la PCDS est coordonnée à l'application de la loi dans l'optique de la réduction du taux de criminalité, de l'établissement de collectivités sûres et de la réalisation des initiatives visant à rendre les quartiers plus sains partout au Canada et aux États-Unis. Cette combinaison soutient les efforts en matière de prévention de la criminalité et permet de s'attaquer aux problèmes qui, autrement, continueraient de nous échapper et de miner notre qualité de vie. Alors que cette approche n'en est encore qu'à ses débuts, les résultats engendrés sont très impressionnants et prometteurs. D'ailleurs, ces résultats ne peuvent que s'améliorer au fur et à mesure que les leçons sont apprises, colligées et utilisées pour façonner des politiques et des pratiques.

Références

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Professional Reflections Concerning the Ontario Criminal Justice System

By Robert (Bob) Russell

Oakville, Ontario

As of June 30, 2006 I am taking early retirement from a highly rewarding career within the Ontario Criminal Justice System. My career path covered a twenty-nine year involvement at the front line level within the Ministry of Community Safety and Correctional Services. I felt the impact of three different provincial government mandates. Each political party often brought its own philosophy to the Criminal Justice System agenda, often changing established policies that had a domino effect within the whole system.

I was first made aware of the C.C.J.A. as a student in the Sheridan College, Correctional Worker Programme, from 1975 to 1977. Two of my college professors were members of the C.C.J.A. and often spoke of their work with the Ontario Association of Corrections and Criminology (O.A.C.C.). I was not only impressed with their involvement with the C.C.J.A./O.A.C.C. but, joined the organization after I obtained employment as a Correctional Officer at the Ontario Correctional Institute in Brampton, Ontario.

Prior to my invitation to join the O.A.C.C. Board of Director's, I was able to experience the changing trends within the Ontario Criminal Justice System. During the late 1970's, there was a great focus on treatment and financial resources towards criminology research within the system. It was a very liberal period and governments of the day appeared more innovative with money for such projects. I had opportunities for secondments to the Metro Toronto Foresenic Service (METFORS) and the Provincial Bailiffs. I was able to experience first hand the transfer of offenders and often felt in my role that we were "robbing Peter to pay Paul" because the correctional system was overwhelmed with a large prison population and double/triple bunking .

March 6, 1990 saw a C.C.J.A. nationwide focus on an event entitled the, "National Forum on Offender Rehabilitation". The O.A.C.C. was one of several affiliates to focus their efforts and resources towards this themed event. The O.A.C.C. chose to host a panel discussion at the Metro Toronto Police Association building. It was a panel that focused on the positive aspects and success stories within the G.T.A. on offender rehabilitation efforts. Media coverage and participants interaction in a question and answer session followed the panel presentation. I was not only part of the working committee headed by Pat Castillo but was invited to join the O.A.C.C. Board of Director's.

From a professional development perspective, my supervisor's at the Ontario Correctional Institute were very supportive of my efforts on the Board of Director's of the O.A.C.C. They paid for my attendance at O.A.C.C. conferences and allowed me to host a O.A.C.C. Board of Director's meeting at OCI, Brampton. The first several years represented a steep learning curve for myself as I was dealing with Board Members that were high profile and well established within the Ontario Criminal Justice System. I had humble beginnings but got involved as a contributor to the O.A.C.C. Newsletter. One article entitled, "Job Profile and the O.A.C.C.", lead me to become editor of the O.A.C.C. Newsletter. My peers were tolerant and encouraging in my efforts to "learn on the job" in this new role. I was given flexibility and latitude to develop a balance between timely Criminal Justice System articles, O.A.C.C. initiatives and policy positions.

In 1995, an O.A.C.C. Newsletter survey was conducted with the O.A.C.C. membership. The O.A.C.C. Newsletter had been published for four years on a semi-annual basis. A format had been developed over those years to keep our membership informed of O.A.C.C. news and events. O.A.C.C. members indicated that they enjoyed public education articles which we continued to feature. For example, the Summer, 1999 edition of the O.A.C.C. Newsletter featured a lead article entitled," Crime Stoppers Update". It noted the most significant development since the first Crime Stoppers program was established in 1982 in Calgary was the decision by the Supreme Court of Canada. The judges of the country's highest court ruled unanimously in February, 1997 that the identity of people providing information to Crime Stoppers must never be disclosed.

The O.A.C.C. Newsletter of Spring/Summer 2000 featured another public education article written by Dr. James Young, Chief Coroner for Ontario. He provided an excellent overview of how inquests were handled within the Province of Ontario. Such processes are meant to find all of the circumstances of the death and not find fault or legal responsibility. Dr. Young has done several presentations at various O.A.C.C. conferences. For example, in 1999 he did a presentation on new developments in Forensics. At our last O.A.C.C. conference, he spoke about how the incident of 9/11 terrorist attack effected security reviews and responses within our province.

My career path had me involved in a lateral transfer to Mimico Correctional Complex in Toronto, during the early 1990's. When I attended Sheridan College, I had done one of my field placements there and therefore was aware of the nature of that institution. During my ten years at Mimico C.C. I was involved in numerous frontline duties. In one role as a Community Correctional Officer, I trained on the L.S.I.-O.R. Risk Management System. I also developed skills on how to do my own C.P.I.C.'s with the O.P.P. and O.T.I.S. paperwork on intermittent offenders. This first hand experience and awareness has recently afforded me the opportunity to provide comments on the C.C.J.A.'s draft policy paper concerning draft amendments to the Criminal Code of Canada (Conditional Sentences).

From 2004 to 2005, I was a Rehabilitation Officer at Maplehurst Correctional Complex in Milton, Ontario. I was involved in the classification process of offenders and also served as the institution's T.A.P. Co-ordinator for six months. This new position was not only satisfying from a career perspective but I was also experiencing the new challenges of one of three mega institutions that had recently been introduced to the province by the Mike Harris government. It certainly was a different way of doing correctional business and debated the new realities with many of my colleagues.

Lastly, in the Fall/05 I became Program Coordinator at the Ontario Parole and Earned Release Board (OPERB). I was undertaking a staff training role while at the same time taking college courses relating to adult education. It was also an opportunity to experience the OPERB Corporate Office in downtown Toronto. I found the OPERB to be a transparent and open organization-that is, besides their mandate they were open to victim's, the media and members of the public. OPERB business was conducted to a high standard as expected within the Criminal Justice System. Based on my temporary assignment with the OPERB, I believe the citizens of Ontario are well severed by the OPERB. They have certainly learned from their limited past mistakes and constantly search for continual improvement processes.

Although I have taken early retirement from my job as a Rehabilitation Officer, I still remain Involved with the O.A.C.C. Board of Directors. I also look forward to the challenges that will be involved with the upcoming C.C.J.A./O.A.C.C. 2007 conference in Toronto, Ontario for myself and fellow Board Members. I still remain passionate about the Criminal Justice System and how the C.C.J.A. and O.A.C.C. have directly and indirectly impacted on my work within it. Despite my early retirement, I have been accepted at Brock University into their Degree in Adult Education. This will allow me to do formally what I have been doing informally for years; that is, mentoring plus coaching college placement students within the correctional process. My university involvement like my involvement with the O.A.C.C. Board of Director's will be a 'work in progress". A passion that I enjoy and will continue to work towards as a personal goal for myself to the best of my ability.

Report of The Nominating Committee 2006-2007

On April 17, 2006, a call for nominations went out to all members in good standing of the Canadian Criminal Justice Association with a view to filling all seats on the Advisory Council of the Association.

The nominations closed one month later on May 15th. When the results were tabulated, the number of nominations was either equal or inferior to the number of vacancies to be filled in all provinces and territories, except for Alberta and Québec, in which province an election was required.

In a special mailing dated June 1st , the membership was called upon to vote by correspondence before the closing date of July 2nd. 117 members in good standing voted.

Following is the list of **Advisory Council** members resulting from the nomination and election process described above. The year in parentheses indicates the date upon which their term will expire. Please note that the affiliate representative, where applicable, is not counted as occupying one of the allotted seats.

Rapport du comité des candidatures pour 2006-2007

Le 17 avril 2006, nous avons procédé à un appel de candidatures auprès de tous les membres de l'Association, en vue de combler tous les postes vacants au Comité consultatif de l'Association

La clôture des candidatures était fixée au 15 mai, soit un mois plus tard. À la compilation des résultats, nous avions reçu un nombre de candidatures égal ou inférieur au nombre de postes vacants pour chacune des provinces et des territoires, sauf l'Alberta, et le Québec où il nous fallait tenir une élection.

Dans un envoi spécial en date du *1er juin*, tous les membres ont été appelés à voter par correspondance avant le 2 juillet, date de clôture de l'élection. 117 membres en règle ont voté.

Voici la composition du **Comité consultatif** à l'issue du processus de mise en candidature et d'élection décrit ci-dessus. L'année entre parenthèses correspond à la fin du mandat de chacun et chacune. Veuillez noter que, là où cela s'applique, nous ne comptons pas le représentant ou la représentante d'une affiliée comme occupant l'un des sièges alloués.

Willie Gibbs

Chair, Nominating Committee /

Président, Comité des candidatures

Advisory Council / Comité consultatif 2006-2007

Alberta (4 seats/4 sièges)	Kathryn Gregory (2011) Michelle Briegel (2009) Roland LaHaye (2009) Maggie MacKillop (2009) *Affiliate representative/* *Représentant de l'affiliée : Peter Teasdale*
British Columbia **Colombie-Britannique** (5 seats/5 sièges)	Judy Croft (2009) Jim Phelps (2009) John Braithwaite (2008) Donna Taylor (2008) Jim Hackler (2007) *Affiliate representative/* *Représentante de l'affiliée : Sandra Thiessen*
Manitoba (2 seats/2 sièges)	Corrine Deegan (2009) Tracey Bone (2008) *Affiliate Representative/* *Représentant de l'affiliée : Riel Dion*
New Brunswick/ **Nouveau-Brunswick** (2 seats/2 sièges)	**2 vacancies / 2 postes vacants** *Affiliate Representative/* *Représentant de l'affiliée :* Vacant
Newfoundland/ **Terre-Neuve** (2 seats/2 sièges)	Terry Carlson (2009) Rosemary Mullins (2008) *Affiliate Representative/* *Représentant de l'affiliée :* Vacant
Northwest Territories/ **Territoires du Nord-Ouest** (2 seats/2 sièges)	2 vacancies / 2 postes vacant
Nova Scotia/ **Nouvelle-Écosse** (2 seats/2 sièges)	Dan MacRury (2009) Verona Singer (2007) *Affiliate Representative/* *Représentant de l'affiliée:* Vacant

Nunavut (2 seats/2 sièges)	Ben Van Den Assem (2007) **1 vacancy / 1 poste vacant**
Ontario (12 seats/12 sièges)	Matthew Yeager (2009) Frances McKeague (2008) Hugh Osler (2008) Peter Prendergast (2008) Elizabeth White (2008) Mihael Cole (2007) Willie Gibbs (2007) Hugh MacLellan (2007) Leslie McDougall (2007) Michael S. Phillips (2007) **2 vacancies / 2postes vacants** *Affiliate Representative/* *Représentante de l'affiliée: Frances McKeague*
Prince Edward Island/ **Île-du-Prince-Édouard** (2 seats/2 sièges)	Phil Arbing (2008) Ron Taylor (2008)
Québec (8 seats/8 sièges)	Paul Williams (2009) Patrick Altimas (2008) Cécile Toutant (2008) Robert Tremblay (2008) Arlène Gaudreault (2007) Samir Rizkalla (2007) Lynn Smith (2007) Martin Van Ginhoven (2007)
Saskatchewan (2 seats/2 sièges)	Louis Lauzière (2007) **1 vacancy / 1 poste vacant**
Yukon (2 seats/2 sièges)	Dennis Cooley (2008) **1 vacancy / 1 poste vacant**

Directory of Justice Services
2007 Edition

The Canadian Criminal Justice Association publishes the Directory of Justice Services on an annual basis. There is no other book like it in Canada. It provides complete addresses, telephone and fax numbers, e-mail and web page addresses, and names of persons responsible for most justice services in Canada: police commissions, RCMP divisions, legal aid services, crime compensation boards, ombudsmen, courts, parole boards, correctional services for juveniles and adults, prisoner aid agencies, court workers, voluntary organizations, etc.

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Répertoire des services de justice
Édition 2007

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Coming Events / Prochains événements

(Published in the language submitted / Publiés dans le langage soumis)

2006

October 22 – 24 / du 22 au 24 octobre

Colloque internationale du Centre de recherche interdisciplinaire sur la violence familiale et la violence faite aux femmes (CRI-VIFF)

Theme/thème : « Violences faites aux femmes : réponses sociales plurielles ».
Place/endroit : Montréal, Québec, Canada
Information/renseignements : E-mail/courriel : johathan.lamarche@criviff.ulaval.ca – **Web :** http://www.criviff.qc.ca/colloque

October 22 – 26 / du 22 au 26 octobre

International Corrections and Prisons Association (ICPA) – 8th Annual General Meeting and Conference

Theme/thème : "Correctional Complexities: Managing Diverse Offender Populations" – **Place/endroit :** Vancouver, British Columbia, Canada
Information/renseignements : ICPA Headquarters, 340 Laurier Avenue West, P.O. Box 44, Ottawa, Ontario K1A 0P9 Canada. Tel./tél. : (613) 293-4710 Fax/téléc. : (613) 482-5003. **E-mail/courriel :** contactus@icpa.ca – **Web :** www.icpa.ca

November 1 – 3 / du 1er au 3 novembre

11th Annual Conference of the Batterer Intervention Services Coalition of Michigan

Theme/thème : "Traumatology of Domestic and Sexual Abuse"
Place/endroit : Treetops Resort, Gaylord, MI, USA –
Information/renseignements : David J.H. Garvin, Chair, Batterer Intervention Services Coalition of Michigan, 2627 North East Street, Lansing, MI 48906 USA. Tel./tél.: (517)482-3933 – Toll free/sans frais: 1-866-482-3937. **E-mail/courriel :** dgarvin@csswashtenaw.org – **Web :** www.biscmi.ord

November 9 – 12 / du 9 au 12 novembre

6th National Harm Reduction Conference

Theme/thème : "Drug User Health: The Politics and the Personal"
Place/endroit : Marriott Oakland City Center Hotel, Oakland California, USA
Information/renseignements : Web : http://www.canadianharmreduction.com

November 12 – 19 / du 12 au 19 novembre

Restorative Justice Week 2006 / Semaine de la Justice réparatrice 2006

Theme/thème : « Creative Partnerships and Collaborative Action/Partenariats novateurs, collaboration solide »
Information/renseignements : John Green – Tel/tél : (613) 947-6435 – **E-mail/courriel :** greenjj@csc-scc.gc.ca or/ou Michelle Landry – Tel/Tél : (613) 995-8366 – **E-mail/courriel :** landrymi@csc-scc.gc.ca

2007

January 20 – 24 / du 20 au 24 janvier

American Correctional Association – 2007 Winter Conference

Place/endroit : Tampa, Florida, U.S.A. – **Information/renseignements :** American Correctional Association, Convention Department, 4380 Forbes Blvd., Lanham, MD 200706-4322 U.S.A. Tel/Tél. : (800) 222-5646 ext. 1922. Fax/Téléc. : (301) 918-8198. **Web :** www.aca.org

March 14 / 14 mars

Journée étudiante sur les droits de l'enfant / Student Salon on the Rights of the Child

Place/endroit : Faculté de droit, Université d'Ottawa/Faculty of Law, University of Ottawa, Ontario, Canada – **Information/renseigements :** Ms. Veronica B. Pinero, Human Rights Reserach and Education Center, 57 Louis Pasteur (550), Ottawa, Ontario, Canada K1N 6N5.
E-mail/courriel : confcdp@uottawa.ca

March 15 – 17 / du 15 au 17 mars

Conférence internationale sur les droits de l'enfant / International Conference on the Rights of the Child

Place/endroit : Faculté de droit, Université d'Ottawa /Faculty of Law, University of Ottawa, Ontario, Canada **Information/renseigements :** Ms. Veronica B. Pinero, Human Rights Reserach and Education Center, 57 Louis Pasteur (550), Ottawa, Ontario, Canada K1N 6N5. **E-mail/courriel :** confcdp@uottawa.ca

August 11 – 16 / du 11 au 16 août

137th Congress of Correction

Host/hôte : American Correctional Association – **Place/endroit :** Kansas City, MO, USA – **Information/renseignements :** American Correctional Association, Convention Department, 4380 Forbes Blvd., Lanham, MD 200706-4322 U.S.A. Tel/tél. : (800) 222-5646 ext. 1922. Fax/téléc. : (301) 918-8198. **Web :** www.aca.org

October 31 – November 3 / du 31 octobre au 3 novembre

31st Canadian Congress on Criminal Justice / 31e Congrès canadien de justice pénale

Theme/thème : "Building and Sustaining Safe, Healthy Communities / Bâtir et soutenir des communautés saines et plus sûres"
Hosts/hôtes : Canadian Criminal Justice Association and Ontario Association on Corrections & Criminology / Association canadienne de justice pénale et l'Ontario Association of Corrections & Criminology
Place/endroit : Sheraton Centre Hotel, Toronto, Ontario, Canada
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Building and Sustaining Safe, Healthy Communities
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